

FILED
COURT OF APPEALS

No. 40446-0-II

10 JUL 19 AM 10:51

STATE OF WASHINGTON

BY cm
COURT CLERK

**IN THE COURT OF APPEALS, DIVISION II,
OF THE STATE OF WASHINGTON**

BERYL FERNANDES, individually,
Appellant,

vs.

JAY MANNING, Director, Department of Ecology, and the
DEPARTMENT OF ECOLOGY and THE STATE OF WASHINGTON,

Respondents.

OPENING BRIEF

THADDEUS P. MARTIN & ASSOCIATES, LLC

Thaddeus P. Martin, WSBA #28175

Daniel A. Mares, WSBA #34059

Of Attorneys for Appellant

4928 109th St. SW
Lakewood, WA 98499
(253) 682-3420

ORIGINAL

TABLE OF CONTENTS

	<u>Page</u>
Table of Authorities.....	iii, iv, v, vi
A. Introduction.....	1
B. Assignments of Error and Issues Pertaining Thereo.....	2
1. Assignment of Error No. 1.....	2
2. Assignment of Error No. 2.....	2
3. Assignment of Error No. 3.....	2
4. Issues Pertaining To Assignment of Error No. 1.....	2
5. Issues Pertaining To Assignment of Error No. 2.....	3
6. Issues Pertaining To Assignment of Error No. 3.....	3
C. Statement of the Case.....	3
D. Statement of Facts.....	3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16
1. The Director of Ecology and others in management conspired to fire Beryl, came up with a plan, and then executed that plan, terminating Beryl on pretext.....	4,5
2. Ecology has a poor history of diversity and racial tension.....	5, 6, 7
3. From day one Caucasian staff and management at Ecology sought to undermine Beryl's efforts to do her job and were openly hostile toward her.....	7, 8, 9, 10, 11, 12
4. Beryl complained about the way she	

	was being discriminated against, resulting in two investigations against Beryl that created the pretext for her termination	12, 13, 14, 15
5.	Beryl was treated differently than her Caucasian counterparts.....	15, 16
6.	Beryl was replaced by a Caucasian male.....	16
E.	Argument 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 ,29, 30,	31, 32
1.	Standard of Review on Motion for Summary Judgment – De Novo.....	16, 17, 18, 19, 20
2.	Washington’s Law Against Discrimination (RCW 49.60 et seq.) is to be liberally construed.....	20, 21
3.	Plaintiff Was Subjected To A Hostile Work Environment.....	21, 22, 23, 24, 25, 26
4.	Defendants Retaliated Against Plaintiff.....	26, 27, 28
5.	Plaintiff Was Wrongfully Discharged.....	28, 29, 30, 31, 32
F.	Conclusion.....	32

TABLE OF AUTHORITIES

	<u>Page</u>
<u>Washington Cases</u>	
<i>Adams v. Able Bldg. Supply, Inc.</i> , 114 Wn. App. 291, 57 P.3d 280 (2002).....	23
<i>Aduddell v. Johns-Manville Corp.</i> , 42 Wn. App. 204, 709 P.2d 822 (1985).....	17
<i>Allison v. Housing Auth.</i> , 118 Wn.2d 79, 821 P.2d 34 (1991).....	21
<i>Amend v. Bell</i> , 89 Wn.2d 124, 570 P.2d 138, 95 A.L.R.3d 225 (1977).....	17
<i>Balise v. Underwood</i> , 62 Wn.2d 195, 381 P.2d 966 (1963).....	18
<i>Brown v. Scott Paper Worldwide</i> , 143 Wn.2d 349, 20 P.3d 921 (2001).....	20
<i>Bulaich v. AT&T Info. Sys.</i> , 113 Wn.2d 254, 778 P.2d 1031 (1989).....	30
<i>Davis v. West One Automotive Group</i> , 140 Wn. App. 449, 166 P.3d 807, 811 (2007).....	19, 23
<i>Dunlap v. Wayne</i> , 105 Wn.2d 529, 716 P.2d 842 (1986).....	17
<i>Fisher v. Tacoma Sch. Dist. No. 10</i> , 53 Wn. App. 591, 769 P.2d 318, <i>rev. denied</i> , 112 Wn.2d 1027 (1989).....	21
<i>Francom v. Costco Wholesale Corp.</i> , 98 Wn.App. 845, 991 P.2d 1182 (2000).....	26
<i>Gardner v. Loomis Armored Inc.</i> , 128 Wn.2d 931, 941 913 P.2d 377 (1996).....	31

<i>George D. Poe & Co. v. Stadium Way Properties</i> , 7 Wn. App. 46, 498 P.2d 324 (1972).....	16
<i>Glasgow v. Georgia Pacific Corp.</i> , 103 Wn.2d 401, 693 P.2d. 708 (1985).....	21, 22, 23, 24
<i>Grimwood v. University of Puget Sound</i> , 110 Wn.2d 355, 753 P.2d 517 (1988).....	29
<i>Hatfield v. Columbia Federal Savings Bank</i> , 57 Wn. App. 876, 790 P.2d 1258 (1990).....	29
<i>Jones v. Kitsap County Sanitary Landfill, Inc.</i> , 60 Wn. App. 369, 803 P.2d 841 (1991).....	29
<i>Korslund v. Dyncorp Tri-Cities Services, Inc.</i> , 156 Wn.2d 168, 125 P.3d 119 (2005).....	30
<i>Kuyper v. Dep't of Wildlife</i> , 79 Wn. App. 732, 904 P.2d 793 (1995), <i>review denied</i> , 129 Wn.2d 1011 (1996).....	19
<i>McKee v. American Home Products</i> , 113 Wn.2d 701, 782 P.2d 1045 (1989).....	24
<i>Money Savers Pharmacy, Inc. v. Koffler Stores</i> , 37 Wn. App. 602, 682 P.2d 960 (1984).....	17
<i>Payne v. Children's Home Soc. of Washington, Inc.</i> , 77 Wn. App. 507, 892 P.2d 1102 (1995).....	21
<i>Sangster v. Albertson's, Inc.</i> , 99 Wn.App. 156, 991 P.2d 674 (2000).....	18
<i>Smith v. Bates Tech. College</i> , 139 Wn.2d 793, 991 P.2d 1135 (2000).....	30
<i>Thompson v. St. Regis Paper Co.</i> , 102 Wn.2d 219, 655 P.2d 1084 (1984).....	29, 30
<i>Van Dinter v. City of Kennewick</i> , 121 Wn.2d 38, 846 P.2d 522 (1993).....	17

<i>Wahl v. Dash Point Family Dental Clinic, Inc.</i> , 144 Wn. App. 34, 181 P.3d 864 (2008).....	30
<i>Washington v. Boeing Co.</i> , 105 Wn. App. 1, 19 P.3d 1041 (Div. I, 2000).....	21
<i>Weisert v. University Hospital</i> , 44 Wn. App. 167, 721 P.2d 553 (1986).....	17
<i>Wilmot v. Kaiser Aluminum & Chem. Corp.</i> , 118 Wn.2d 46, 821 P.2d 18 (1991).....	31
<i>Wilson v. Steinbach</i> , 98 Wn.2d 434, 656 P.2d 1030 (1982).....	17
<i>W. Telepage, Inc. v. City of Tacoma Dep't of Fin.</i> , 140 Wn.2d 599, 998 P.2d 884 (2000).....	16
<i>Xieng v. Peoples Nat'l Bank</i> , 120 Wn.2d 512, 844 P.2d 389 (1993).....	20
<i>York v. Wahkiakum Sch. Dist. No. 200</i> , 163 Wn.2d 297, 178 P.3d 995 (2008).....	16

Federal Circuit Court Cases

<i>Lam v. University of Hawaii</i> , 40 F.3d 1551, (9th Cir. 1994).....	18, 20
<i>McGinest v. GTE Service Corp.</i> , 360 F.3d 1103, (9th Cir. 2004).....	20
<i>Schnidrig v. Columbia Mach., Inc.</i> , 80 F.3d 1406 (9th Cir. 1996).....	19, 20
<i>Sischo-Nownejad v. Merced Community College Dist.</i> , 934 F.2d 1104 (9th Cir. 1991).....	18, 20

United States Supreme Court Cases

<i>Harris v. Forklift Sys., Inc.</i> , 510 U.S. 17, 114 S. Ct. 367 (1993).....	22
--	----

McDonnell Douglas Corp. v. Green, 411 U.S. 792,
93 S.Ct. 1817, 36 L.Ed.2d 668 (1973).....2, 18

Oncala v. Sundowner Offshore Serv., Inc., 523 U.S. 75,
118 S.Ct. 998, 140 L.Ed.2d 201 (1998).....20

Washington State Statutes

RCW 49.60.....1, 2, 20

RCW 49.60.020.....21

RCW 49.60.040.....20

RCW 49.60.180.....28

Washington State Rules

CR 56(c).....16

A. Introduction

This appeal concerns the issues of race discrimination under RCW 49.60 *et seq.* and wrongful termination. The Director of the Department of Ecology and others in management conspired to run plaintiff Beryl Fernandes, a woman of color, out of the department. The Director and others in management came up with a plan to terminate Beryl because she was a woman of color and then to cover up their scheme with a sham investigation and a pretextual termination. Ecology's own documentation shows that the Director and others in management hatched their plan many months before the Director's investigation was conducted which was ultimately used to justify Beryl's termination. When Beryl told the Director about the horrendous treatment she was enduring at the hands of a hostile all-white regional management team the Director began an investigation that quickly focused on Beryl rather than her attackers.

Defendants moved for summary judgment and the lower court granted defendants' motion for summary judgment and dismissed all of plaintiff's causes of action. The evidence shows that genuine issues of material fact exist in this case making summary judgment improper.

///

///

///

B. Assignments of Error and Issues Pertaining Thereto

1. Assignment of Error No. 1

The lower court erred in granting defendants' motion for summary judgment on plaintiff's RCW 49.60 race discrimination claim, including plaintiff's claim of hostile work environment.

2. Assignment of Error No. 2

The lower court erred in granting defendants' motion for summary judgment on plaintiff's RCW 49.60 retaliation claim.

3. Assignment of Error No. 3

The lower court erred in granting defendants' motion for summary judgment on plaintiff's wrongful discharge claim.

4. Issues Pertaining To Assignment of Error No. 1

Did the lower court err in finding that defendant Department of Ecology satisfied the second prong of the *McDonnell Douglas* burden shifting scheme such that the burden shifted to plaintiff to prove that the reason(s) for plaintiff's termination were pretextual and did the court err in finding that plaintiff did not prove that the reason(s) for plaintiff's termination were pretextual?

With respect to plaintiff's hostile work environment claim, did the lower court err in finding that plaintiff did not prove that the harassment occurred because of race?

5. Issues Pertaining To Assignment of Error No. 2

Did the lower court err in finding that plaintiff did not establish her prima facie case of retaliation by finding that plaintiff did not establish a causal link between statutorily protected activity and an adverse employment action?

Did the lower court err in finding that plaintiff did not demonstrate that defendant Department of Ecology's explanation for the adverse employment action was pretextual?

6. Issues Pertaining To Assignment of Error No. 3

Did the lower court err in finding that there was not an absence of overriding justification related to plaintiff's termination by defendant Department of Ecology?

C. Statement of the Case

This is an appeal from the lower court's Opinion on Motion for Summary Judgment of February 24, 2010, CP 971-83 and the lower court's Order Granting Defendants' Motion for Summary Judgment dated March 5, 2010, CP 984-86 which resulted in the dismissal of all of plaintiff's causes of action.

D. Statement of Facts

Beryl Fernandes is a woman of color who was born and raised in Africa. CP 645-46. Beryl has a Ph.D. in Urban Planning and

Environmental Engineering from the University of Washington. CP 647.

She has worked in the environmental field for over 30 years. *Id.*

1. The Director of Ecology and others in management conspired to fire Beryl, came up with a plan, and then executed that plan, terminating Beryl on pretext

Linda Hoffman, Director of Ecology, testified at her deposition that she did not contemplate terminating Beryl's employment until sometime toward the end of the summer or early fall of 2004. CP 719. However, Ecology's Human Resources Director, Joy St. Germain, testified that Linda Hoffman sought advice from her regarding terminating Beryl as early as January of 2004, months before the investigation even began. CP 714-15 and *See Exhibit B* to CP 638-40 at p. 15, ln. 12 – p. 16, ln. 10¹ and CP 526-27.

Director Hoffman provided Beryl with a termination letter many months later on October 4, 2004 stating, "This is to notify you of my decision to terminate your appointment, effective at the close of business on October 29, 2004." CP 843. The letter gives no explanation for the termination except that Beryl's position was as an exempt management position that served at the pleasure of the Director. *Id.* The letter concluded

¹ For reasons unknown to plaintiff, certain exhibits and portions of exhibits presented to the trial court do not appear in the Clerk's Papers. It appears from the lower court's opinion that the court did receive the exhibits. Plaintiff will submit those exhibits and portions of exhibits, and will move the Court pursuant to RAP 9.10 to supplement and correct the record on appeal.

by thanking Beryl for her service and wishing her the best in her future endeavors. *Id.* The advice Human Resources Director Joy St. Germain gave to Hoffman as far back as January of 2004 included that exempt positions serve at the pleasure of the Director, that less specific information should be provided, and that the letter “should be short and simple: ‘Thank you for your year of service. Your last day is _____. Wishing you the best in your future endeavors.’ Do not put any criticisms or reasons in the letter at all.” CP 526-27. Ms. St. Germain also advised Director Hoffman on how to set up the termination to most effectively oppose a claim of discrimination based upon the termination:

If challenged later, (e.g., lawsuit), you may need to give reasons and the basis and foundation for your decision, with concrete examples. If sued, we would need to demonstrate that the person was terminated for legitimate, non-discriminatory reasons. ***Doing a “dry-run” of these reasons could be done now*** and reviewed by Stewart. What measurable criteria can be shown that was used to assess her performance? Show the evidence of poor interactions. You can call out specific performance deficiencies, and show that clear expectations and assistance was provided by you and many others who want her to succeed.

Id. (emphasis added). After she had already been notified of her termination, Beryl was given the “choice” of being terminated or resigning. CP 707-08. The facts surrounding Ecology’s background of poor racial relations and the discriminatory behavior Beryl endured further evidence the scheme against her.

2. Ecology has a poor history of diversity and racial tension

In 1998 a report was submitted entitled, “The Effectiveness and Impact of Diversity Programs at the Department of Ecology.” CP 859-917. The report was generated because of the concerns of minority employees at Ecology: “In 1997, a group of concerned minority employees met with certain members of Ecology’s management team to convey their concerns. Their message suggested the possible existence of a culturally biased atmosphere in the agency, one that is institutionally tolerated and condoned by the organization’s established culture and infrastructure.” CP 864. During the two years prior to the report, two complaints of discrimination by African-American employees were submitted to management, one of which led to litigation. CP 870. The drafter of the report found that, “...actions of the agency indicate that diversity may not be actively or effectively managed.” *Id.* In addition, he found that, “...the number of minority employees in specific job categories, particularly in the management and supervisory areas, are still very few.” *Id.* Ecology’s Director in 2003 and 2004, Linda Hoffman, testified that over the course of her 25-year career prior to joining Ecology, she only hired one person of color. CP 721-22. A workforce cultural assessment of Ecology submitted in 2000 presented findings surprisingly similar to what Beryl later faced at Ecology. “Lack of support from immediate supervisors. When

inappropriate behaviors or actions take place, supervisors are not proactive in resolving them. *If someone does speak up, they risk ‘isolation and retribution.’*” CP 895.

Beryl stepped into this culture of racial hostility in 2003 when Beryl applied for the advertised position of Southwest Regional Director with the Department of Ecology and submitted an application and multi-page resume. CP 845-58. She was tested and interviewed during a day-long process that involved a large number of agency staff. See Exhibit A to CP 638-40 at p. 126, ll. 9-18.

The Director of Ecology at that time, Tom Fitzsimmons, had the final say on whether or not Beryl would be hired. CP 657-58. Mr. Fitzsimmons recommended that Beryl be offered the position. He stated that she was the most qualified candidate for the position and also noted that, being a person of color, she would increase diversity at Ecology. CP 837-40. Beryl was the first person of color hired as a Regional Director at Ecology. CP 690-91.

3. From day one Caucasian staff and management at Ecology sought to undermine Beryl’s efforts to do her job and were openly hostile toward her

Beryl started working as the Southwest Regional Director in March of 2003. CP 662-64. Beryl reported to the Director of Ecology. *Id.* Beryl’s job was to oversee the affairs of the Department of Ecology in a 12-county

region and to represent the agency director in the region. *Id.* Beryl managed an office with 12 support staff. *See Exhibit A* to CP 638-40 at p. 206, ln. 3.

Shortly after Beryl started working, when she asked her secretary, Abbe White, to do simple tasks for her, her secretary refused. 656-57. Ms. White would claim that her, “plate runneth over.” CP 665. Beryl asked Tom Fitzsimmons for help and he told Beryl to speak with Pam Berns. CP 675. Beryl learned that Ms. White was still working for Beryl’s predecessor, Sue Mauermann, and her priority was doing Ms. Mauermann’s work. 665-66. Beryl learned from Pam Berns that Ms. White actually reported to Ms. Berns. *Id.* Ms. Berns informed Beryl that Ms. White did not want to work for Beryl. CP 667-68. Beryl asked Ms. Berns what to do about the situation and Ms. Berns came up with the idea to transfer Ms. White, a Caucasian, to another job and appoint Lorna Mendez-Correa, a woman of color, as Beryl’s confidential secretary. CP 656-57; CP 692.

Shortly after Beryl started working for Ecology, Pam Berns asked Beryl to sign her time slip authorizing her to visit her boyfriend in Colorado for two weeks on state time. *See Exhibit A* to CP 638-70 at p. 206, ln. 24 – p. 207, ln. 6 and p. 371, ll. 2-7. Beryl’s predecessors had approved the request but Beryl refused. *Id.* Ms. Berns became furious with Beryl. *Id.* Ms. Berns, a member of the RMT, proceeded to work with the RMT to

drive Beryl out of Ecology. Ms. Berns later communicated confidential information to Ms. Mendez-Correa that Beryl had shared with Ms. Berns regarding Beryl's intention to move Ms. Mendez-Correa for poor job performance. CP 704-05.

Beryl's experience with the RMT was different from anything she had ever encountered in the past. CP 659. The RMT basically told Beryl how she should do her job and that she had better do it that way or else. *Id.* Beryl's predecessor, Sue Mauermann, did not encounter these types of challenges from the RMT. CP 659.

Tom Fitzsimmons asked Beryl to see what she could do to improve diversity within Ecology's Southwest Regional Office. *See Exhibit A* to CP 638-70 at p. 130, ln. 18 – p. 131, ln. 12. Beryl suggested to the RMT that they should come up with ideas to improve diversity and then the group would decide which ideas were the best. *Id.* Beryl would then take the person who suggested that idea out to lunch. *Id.* This was the only time that Beryl raised diversity issues with the RMT. *Id.* The members of the RMT later complained that Beryl was too focused on diversity and that this was problematic. *See Exhibit A* to CP 638-70 at p. 129, ln. 24 – p. 130, ln. 18.

During Beryl's second week on the job she met with RMT member Paula Ehlers who told Beryl that Beryl needed to "take care of" one of her

staff, Randy Davis, the only African American professional among the entire Southwest Region's 120 program staff. CP 659-62; CP 710-11. Beryl responded by recommending that Ms. Ehlers find a mediator to help resolve any issues but Ms. Ehlers made it clear that she did not want that. CP 660-61. When Beryl would not do as she wanted, Ms. Ehlers stomped out of Beryl's office. *Id.* Beginning the next Monday at the weekly RMT meetings, Ms. Ehlers became openly hostile toward Beryl. CP 661-62. Ms. Ehlers became belligerent, disrespectful, condescending, and argumentative with Beryl. CP 674. Ms. Ehlers got other members of the RMT involved in this behavior and the behavior then continued at every single RMT meeting. *Id.* Beryl later learned that Paula Ehlers was involved in a legal battle involving Randy Davis². CP 673.

During a particularly hostile meeting with the RMT, RMT member Laurie Davies lambasted Beryl verbally for what seemed to Beryl to be 20 minutes. CP 679. Beryl told Deputy Director Linda Hoffman about the hostile treatment she had endured. *Id.*

Beryl asked that Ecology hire an outside consultant to work with her on the issues she was having with the RMT. CP 652-53. The RMT was opposed to the idea of bringing in an outsider and instead suggested that

² Beryl also later learned that Linda Hoffman and Paula Ehlers were good friends and had been from the time they had worked together for Thurston County prior to working for Ecology. CP 728-29.

Ecology use someone from within the agency. *Id.* and CP 654-55. The RMT chose Polly Zehm, the Regional Director for the Central Region. CP 652-53. It was decided that they would conduct two facilitated meetings. *Id.* The first meeting went fine. *Id.* The second session turned into a multi-hour lambasting by 15-20 Caucasian middle managers from the RMT who did not even give Beryl an opportunity to speak. CP 648-49; CP 652-53. The Caucasian members of the RMT took turns criticizing Beryl. *Id.* When Beryl once tried to explain something, one of the members of the RMT yelled that she should just sit there and listen. *Id.* and CP 654. Beryl felt as though she had just been the victim of a lynching or a public stoning. *See Exhibit C* to CP 638-70 at p. 5, ln. 22 – p. 6, ln. 6; CP 648-49. Beryl describes the experience as “horrible” and “devastating.” CP 650-51; CP 652-53.

Two days later Beryl learned that Tom Fitzsimmons was leaving Ecology to become the Governor’s Chief of Staff so she emailed Mr. Fitzsimmons with her concerns regarding the RMT’s hostile behavior. CP 835. *Exhibit C* to CP 638-70 at p. 15, ll. 20-24. Beryl would not have taken the position with Ecology if she had known that Mr. Fitzsimmons was not going to remain as Ecology’s director. CP 669-670. Beryl knew that with the amount of contention that already existed at Ecology between the Caucasian staff and the people of color, it was particularly important that

she go into the job with a supervisor who was going to be there for her and who was going to be supportive and work with her through whatever issues arose. *Id.* This was absolutely critical to Beryl. *Id.* Beryl suggested to Mr. Fitzsimmons that an outside consultant should be brought in to help with the problems with the RMT. CP 835.

Deputy Director Linda Hoffman succeeded Tom Fitzsimmons as the director of Ecology in October of 2003. *See Exhibit C* to CP 638-70 at p. 4, ln. 22 – p. 5, ln. 4 and p. 15, ll. 20-24. Ms. Hoffman put Beryl down in front of other Ecology employees, including Beryl's subordinates. CP 689. The RMT had a direct line of communication with Hoffman who appeared to encourage them to talk with her instead of with Beryl, undermining Beryl's ability to deal with any issues the RMT might have had. CP 671-72.

4. Beryl complained about the way she was being discriminated against, resulting in two investigations *against* Beryl that created the pretext for her termination

Beryl told Director Linda Hoffman that she felt as though she were the victim of a lynching at the hands of the all-white RMT. *See Exhibit C* to CP 638-70 at p. 5, ln. 22 – p. 6, ln. 6. Ms. Hoffman should have been well aware of Beryl's concerns about discriminatory conduct on the part of the RMT:

Q But you didn't at any point in time communicate to Ms. Hoffman, or Mr. Fitzsimmons for that matter, that you perceived yourself to be a victim of race or age or gender discrimination; is that fair to say?

A I did have a conversation with -- with Linda Hoffman that was very pointed, and I said I am the only person of color in that room.

Q Okay. But --

A And these are all White people, and put yourself in my situation, you as a White person in a room with all Black folk and they're all hurling criticism after criticism at you, so yes.

CP 676-77.

Beryl suggested that an outside consultant should be brought in to help her to deal with the RMT. CP 678. Other managers, including Linda Hoffman, had employed outside consultants to resolve issues. *Id.* Initial steps were taken to outline a scope of work for the outside consultants but Linda Hoffman unilaterally decided not to employ the outside consultants and instead chose to bring in an attorney investigator of her choosing to conduct an investigation into the matter. CP 696; CP 699. This only occurred after Director Hoffman subjected Beryl to a series of grueling interrogations designed to provide Hoffman with the information necessary to begin an investigation. CP 684. See Exhibit A to CP 638-70 at p. 204, ln. 15 – p. 205, ln. 14. During the interrogations Ms. Hoffman used words Beryl had not used and put words in Beryl's mouth as an excuse to conduct an investigation that Beryl did not seek. CP 684-85. Beryl had complained

about similar hostile conduct involving the RMT and others at Ecology, some of it focused on other Ecology employees, approximately a year prior to Ms. Hoffman's interrogations of Beryl but Ms. Hoffman had not acted at that time. CP 694-95; CP 703. Beryl did not want Ecology to conduct an investigation because it would be disruptive, counterproductive, and destructive. See Exhibit A to CP 638-70 at p. 201, ll. 6-17. Hoffman later claimed that she was obligated to conduct an investigation because Beryl had claimed that the RMT's behavior had her terrified. See Exhibit C to CP 638-70 at p. 55, ln. 8 – p. 56, ln. 4. At no time did Beryl ever claim that she feared "prospective violence." As Ms. Hoffman testified:

Q Did Dr. Fernandes express to you that she was terrified that some physical harm was going to come to her?

A No. I did not hear it that way.

Q When you said you didn't hear it that way, you didn't take it to mean that?

A Correct.

See Exhibit C to CP 638-70 at p. 57, ll. 6-11.

When Beryl was unable to prevent the investigation she suggested that the investigator interview numerous specific individuals who had knowledge of her effectiveness and excellent performance as part of the investigation. See Exhibit A to CP 638-70 at p. 206, ln. 23 – p. 207, ln. 6. Instead, the investigator interviewed the members of the RMT and other

Ecology employees who had been targeting and harassing Beryl. *Id.* at p. 207, ln. 24 – p. 208, ln. 6 and p. 373, ll. 8-22. The results of this investigation were used as the basis for Linda Hoffman’s decision to terminate Beryl’s employment with Ecology, claiming that Beryl was not a good “fit” for the position. *See Exhibit C* to CP 638-70 at p. 10, ln. 14 – p. 11, ln. 3.

5. Beryl was treated differently than her Caucasian counterparts

None of the other Regional Directors or Beryl’s predecessors, each Caucasian, were treated with the kind of hostility with which the RMT treated Beryl. CP 680-82. Other managers at Ecology who requested consultants to help resolve issues were allowed to hire consultants while Beryl’s request was ultimately denied in favor of an investigation that became an investigation of *her*. CP 683; CP 686. Tom Fitzsimmons even assured Beryl that, first, she was doing a good job, and, second, that if issues with a manager or director arose Ecology would work with the manager internally and if that didn’t work then a management consultant would be provided in a collaborative way. CP 687-88. Other managers at Ecology were not subjected to grueling interrogations by the director as Beryl was at the hands of Linda Hoffman. CP 684. No other regional director had the director intruding upon their work the way Ms. Hoffman

intruded upon Beryl's work and her attempt to peaceably resolve the RMT's hostility toward her. CP 693; CP 697-98.

6. Beryl was replaced by a Caucasian male

Ecology did not perform a broad solicitation outside the agency when it looked for Beryl's replacement. CP 830-31. Ecology hired Dick Wallace as the Southwest Regional Director. *Id.* Mr. Wallace is a Caucasian male. *Id.* Mr. Wallace was appointed from within the agency. *Id.* Linda Hoffman appointed Mr. Wallace to the position. *Id.*

E. Argument

1. Standard of Review on Motion for Summary Judgment – De Novo

The Court of Appeals reviews a summary judgment order *de novo*. *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 302, 178 P.3d 995 (2008) (citing *W. Telepage, Inc. v. City of Tacoma Dep't of Fin.*, 140 Wn.2d 599, 607, 998 P.2d 884 (2000)). In ruling upon a summary judgment motion, pursuant to CR 56(c), the trial court must view the evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party, *George D. Poe & Co. v. Stadium Way Properties*, 7 Wn. App. 46, 498 P.2d 324 (1972), and grant the motion only "if the pleadings, affidavits, depositions, and admissions on file demonstrate there is no genuine issue concerning any material fact, and the moving party is entitled

to judgment as a matter of law,” (*citations omitted*), *McKee v. American Home Products*, 113 Wn.2d 701, 705, 782 P.2d 1045 (1989).

Courts may not resolve questions of fact on summary judgment unless, considering all evidence and reasonable inferences in the light most favorable to the nonmoving party, reasonable minds could reach but one conclusion from the evidence presented. *Van Dinter v. City of Kennewick*, 121 Wn.2d 38, 47, 846 P.2d 522 (1993).

“Even where the evidentiary facts are undisputed, if reasonable minds could draw different conclusions from those facts, then summary judgment is not proper.” *Money Savers Pharmacy, Inc. v. Koffler Stores*, 37 Wn. App. 602, 608, 682 P.2d 960 (1984); *Weisert v. University Hospital*, 44 Wn. App. 167, 172, 721 P.2d 553 (1986); *Wilson v. Steinbach*, 98 Wn.2d 434, 437, 656 P.2d 1030 (1982). “Where different inferences may be drawn from evidentiary facts as to ultimate facts such as knowledge, summary judgment is not warranted.” *Aduddell v. Johns-Manville Corp.*, 42 Wn. App. 204, 207, 709 P.2d 822 (1985).

If there is an issue of credibility, the motion for summary judgment should be denied. *Amend v. Bell*, 89 Wn.2d 124, 129, 570 P.2d 138, 95 A.L.R.3d 225 (1977). An issue of credibility is present if there is contradictory evidence or the movant's evidence is impeached. *Dunlap v. Wayne*, 105 Wn.2d 529, 536, 716 P.2d 842 (1986); *Amend*, 89 Wn.2d at

129, 570 P.2d 138 (citing *Balise v. Underwood*, 62 Wn.2d 195, 381 P.2d 966 (1963)).

Summary judgment should rarely be granted in employment discrimination cases, *Sangster v. Albertson's, Inc.*, 99 Wn. App. at 160, and, defeating one requires only minimal evidence:

This Court has set a high standard for the granting of summary judgment in employment discrimination cases. Most recently, we explained that “[w]e require very little evidence to survive summary judgment’ in a discrimination case, ‘because the ultimate question is one that can only be resolved through a “searching inquiry” — one that is most appropriately conducted by the factfinder, upon a full record.” *Lam v. University of Hawaii*, 40 F.3d 1551, 1563 (9th Cir. 1994) (quoting *Sischo-Nownejad v. Merced Community College Dist.*, 934 F.2d 1104, 1111 (9th Cir. 1991)).

“[W]hen a plaintiff has established a prima facie inference of disparate treatment through direct or circumstantial evidence of discriminatory intent, he will necessarily have raised a genuine issue of material fact with respect to the legitimacy or bona fides of the employer's articulated reason for its employment decision.” . . . When [the] evidence, direct or circumstantial, consists of more than the *McDonnell Douglas* presumption, a factual question will almost always exist with respect to any claim of a nondiscriminatory reason. The existence of this question of material fact will ordinarily preclude the granting of summary judgment. *Sischo-Nownejad*, 934 F.2d at 1111 (quoting *Lowe*, 775 F.2d at 1009).

Schnidrig v. Columbia Mach., Inc., 80 F.3d 1406, 1410-1411 (9th Cir. 1996).³

“Summary judgment in favor of the employer in a discrimination case is often inappropriate because the evidence will generally contain reasonable but competing inferences of both discrimination and nondiscrimination that must be resolved by a jury.” *Davis v. West One Automotive Group*, 140 Wn. App. 449, 456, 166 P.3d 807, 811 (2007) (citing *Kuyperv. Dep't of Wildlife*, 79 Wn. App. 732, 739, 904 P.2d 793 (1995), *review denied*, 129 Wn.2d 1011 (1996)).

In the context of a summary judgment motion, an inference of discriminatory intent is all that is a plaintiff is required to show. And in defeating a summary judgment motion plaintiff is only required to present evidence from which a finder of fact could, but not necessarily would, find discriminatory intent. And that evidence is analyzed by the trial court under the “substantial factor” standard under Washington law, not under the “but for” standard. *Wilmot v. Kaiser Aluminum & Chem. Corp.*, 118 Wn.2d 46, 71, 821 P.2d 18 (1991).

The Ninth Circuit has had this to say about summary judgment motions in the context of racial discrimination in the workplace:

³ The Washington Court of Appeals has held that federal law is instructive with regard to our state discrimination laws. *Dedman v. Pers. Appeals Bd.*, 98 Wn. App. 471, 478, 989 P.2d 1214 (1999).

In evaluating motions for summary judgment in the context of employment discrimination, we have emphasized the importance of zealously guarding an employee's right to a full trial, since discrimination claims are frequently difficult to prove without a full airing of the evidence and an opportunity to evaluate the credibility of the witnesses. *See, e.g., Schnidrig*, 80 F.3d at 1410-11; *Lam [v. Univ. of Hawaii]*, 40 F.3d [1551] at 1563 [(9th Cir. 1994)]; *Sischo-Nownejad v. Merced Community College Dist.*, 934 F.2d 1104, 1111 (9th Cir. 1991). As the Supreme Court has stated, "The real social impact of workplace behavior often depends on a constellation of surrounding circumstances, expectations, and relationships which are not fully captured by a simple recitation of the words used or the physical acts performed." *Oncala v. Sundowner Offshore Serv., Inc.*, 523 U.S. 75, 81-82, 118 S.Ct. 998, 140 L.Ed.2d 201 (1998). As a result, when a court too readily grants summary judgment, it runs the risk of providing a protective shield for discriminatory behavior that our society has determined must be extirpated.

McGinest v. GTE Service Corp., 360 F.3d 1103, 1112 (9th Cir. 2004).

2. Washington's Law Against Discrimination (RCW 49.60 et seq.) is to be liberally construed

The Washington Law Against Discrimination applies to companies who discriminate, as well as individual supervisors who discriminate. RCW 49.60.040(3). *Brown v. Scott Paper Worldwide*, 143 Wn.2d 349, 357-8, 20 P.3d 921, 928 (2001). RCW 49.60 et seq., Washington's Law Against Discrimination ("WLAD") is a significant set of laws governing discrimination in the workplace and is a critical piece of the fabric of our diverse society. As our state's highest court stated, the WLAD embodies a public policy of the "highest priority!" *Xieng v. Peoples Nat'l Bank*, 120

Wn.2d 512, 521, 844 P.2d 389 (1993) (*quoting Allison v. Housing Auth.*, 118 Wn.2d 79, 86, 821 P.2d 34 (1991)). RCW 49.60.020 informs us that all of the provisions of WLAD “shall be construed liberally for the accomplishment of the purposes thereof.” RCW 49.60.020.

3. Plaintiff Was Subjected To A Hostile Work Environment

In order to show a prima facie case of hostile work environment based on race a plaintiff must show: (1) the harassment was unwelcome; (2) the harassment was because of race; (3) the harassment affected the terms or conditions of employment; and (4) the conduct is imputable to the employer. *Washington v. Boeing Co.*, 105 Wn. App. 1, 19 P.3d 1041 (Div. I, 2000); *Fisher v. Tacoma Sch. Dist. No. 10*, 53 Wn. App. 591, 595-96, 769 P.2d 318, *rev. denied*, 112 Wn.2d 1027 (1989) (holding that the *Glasgow* test for a hostile work environment based on sex applies to a hostile work environment based on race as well) (*Glasgow v. Georgia Pacific Corp.*, 103 Wn.2d 401, 693 P.2d. 708 (1985)).

Conduct is harassing when it is “unwelcome” in the sense that the plaintiff-employee did not solicit or incite it, and in the further sense that the employee regarded the conduct as undesirable or offensive. *Payne v. Children’s Home Soc. of Washington, Inc.*, 77 Wn. App. 507, 513-514, 892 P.2d 1102, 1106 (1995) (*citing Glasgow, supra*). Conduct is unwelcome if

the plaintiff did not solicit or incite it. *Davis v. West One Automotive Group*, 140 Wn. App. 449, 457, 166 P.3d 807, 811 (2007).

To determine whether the employer's conduct was sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment, courts look at the totality of the circumstances. *Davis v. West One Automotive Group*, 140 Wn. App. 449, 458, 166 P.3d 807, 812 (2007). Whether harassment is sufficiently severe or pervasive is a question of fact. *Harris v. Forklift Sys., Inc.*, 510 U.S. 17, 23, 114 S. Ct. 367 (1993).

Title VII is violated “[w]hen the workplace is permeated with ‘discriminatory intimidation, ridicule, and insult,’ that is ‘sufficiently severe or pervasive to alter the conditions of the victim’s employment and create an abusive working environment’” (internal citations omitted). *Harris v. Forklift Systems, Inc.*, 510 U. S. 17, 21 (1993). *Glasgow v. Georgia-Pacific Corp.*, 103 Wn.2d 401, 406, 693 P.2d 708 (1985). The court determines this by looking to the totality of the circumstances, considering factors such as “the frequency of the discriminatory conduct; its severity; whether it is physically threatening or humiliating, or a mere offensive utterance; and whether it unreasonably interferes with an employee's work performance.” *Harris v. Forklift Sys. Inc.*, 510 U.S. 17, 114 S. Ct. 367, 371, 126 L. Ed. 2d 295 (1993); *Glasgow*, 103 Wn.2d at 406-07.

The Court of Appeals recently addressed this issue in *Davis v. West*

One Automotive Group:

Whether the comments here affected the conditions of [plaintiff's] employment is a question of fact. [Plaintiff] asserts he was humiliated by these comments. He claims emotional distress. The record shows [plaintiff] was often late and absent from work. There was friction between him and other employees. When he called in ill a few days before his termination, [plaintiff] testified that he was "[p]robably mentally sick, drained." . . . An inference could be drawn that this was the result of the hostile work environment.

To determine whether [the employer's] conduct was sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment, we look at the totality of the circumstances. *Adams v. Able Bldg. Supply, Inc.*, 114 Wn. App. 291, 296, 57 P.3d 280 (2002). Looking at all the evidence in the light most favorable to [plaintiff] as required, we conclude he had raised a question of fact with regard to the third element of this claim.

Davis v. West One Automotive Group, 140 Wn.App at 457-8.

The harassment is imputed to the employer where an owner, manager, partner or corporate officer personally participates in the harassment. *Glasgow, supra* at 407. If the discriminatory work environment is created by a plaintiff's supervisor or a co-worker, the employee must show that the employer (1) authorized, knew, or should have known of the harassment and (2) failed to take reasonably prompt and adequate corrective action. *Id.* Prompt and adequate corrective action must

be calculated not only to stop the harassment but also to deter future harassment. *Id.* The plaintiff can show the employer knew or should have known of the harassing conduct by showing past complaints were made to the employer through higher managerial or supervisory personnel or by proving such a pervasiveness of the harassment at the work place as to create an inference of the employer's knowledge or constructive knowledge of it and (b) that the employer's remedial action was not of such nature as to have been reasonably calculated to end the harassment. *Id.* at 407.

The harassment here was clearly unwelcome. Beryl complained about the harassment to management. She did not solicit or incite it. She simply performed her job well and the all-white RMT and others attacked her. The harassment of Beryl was due to her race. Beryl was the only person of color in upper management at Ecology and the only person who was harassed by her coworkers in such a manner. None of the Caucasian Regional Directors were harassed by the all-white regional management team. Linda Hoffman did not yell and scream at any of the Caucasian managers and did not subject them to hours long interrogations. After Beryl was fired she was replaced by a Caucasian man. Viewing these facts in the light most favorable to the plaintiff and drawing all reasonable inferences therefrom, there is at the very least a genuine issue of fact on this element making summary judgment improper.

The terms and conditions of Beryl's employment were affected by the harassment. Beryl suffered physically and emotionally and her ability to perform her job was impeded. Hoffman's actions had a serious detrimental effect on Beryl's terms and conditions of employment. Beryl was under a doctor's treatment for the stress that she was experiencing. CP 706.

I was so beaten down and so -- I was sick. I was physically ill, extremely ill under a doctor's medical treatment. After what they had put me through for 20 months straight, week after week after week. I'd gone through an extensive, very stressful investigation, seven hours of interrogation by Ms. Hoffman and now this. I mean, I couldn't possibly -- I couldn't stomach it.

CP 709.

The harassment Beryl was subjected to is imputable to Ecology. Linda Hoffman's harassment of Beryl, including the yelling and screaming as well as the hours long interrogations that went on despite Beryl's requests that they end due to her becoming ill are directly imputable to Ecology because Hoffman was the Director of Ecology, the highest ranking person at Ecology. The harassment Beryl was subjected to at the hands of the RMT and other coworkers is also imputable to the employer because Ecology knew of the harassment and failed to take reasonably prompt and adequate corrective action. Beryl told Fitzsimmons and Hoffman about the harassment she was enduring. Beryl recommended that an outside

consultant be brought in to correct the situation. Instead, someone from within the agency was brought in to conduct two “mini retreats,” the second of which turned into nothing more than a session throughout which the all-white RMT verbally assaulted Beryl while the “mediator” did nothing to protect Beryl. After Ecology agreed to bring in an outside consultant Linda Hoffman unilaterally chose not to employ the outside consultant and instead started an investigation which only made matters worse, causing the RMT to retaliate against Beryl in an attempt to get her fired.

4. Defendants Retaliated Against Plaintiff

Plaintiff may establish a prima facie case for retaliation by showing that (1) she engaged in a statutorily protected activity, (2) an adverse action was taken, and (3) there is a causal link between her activity and the adverse action. *Francom v. Costco Wholesale Corp.*, 98 Wn.App. 845, 861-82, 991 P.2d 1182 (2000). “The plaintiff need not show that retaliation was the only or ‘but for’ cause of the adverse...action, but he or she must establish that it was at least a substantial factor.” *Id.* “Because employers rarely will reveal they are motivated by retaliation, plaintiffs ordinarily must resort to circumstantial evidence to demonstrate retaliatory purpose.” *Id.* “One factor supporting retaliatory motivation is proximity in time between the protected activity and the [adverse] action.” *Id.*

Seeking redress for violations of the Washington Law Against Discrimination is a statutorily protected activity. After Beryl was subjected to the harsh and hostile “lynching” by the all-white RMT she informed Linda Hoffman of what she had been subjected to during her time at Ecology. Ms. Hoffman was well aware of Beryl’s concerns regarding the incident:

Q When Beryl told you something to effect of, "They are all white people - like a lynching," did you get the impression that she felt she was being targeted because of her race?

A I thought she was drawing an analogy that would give me an impression of how she felt.

Q And that impression of how she felt, did that include in your mind a feeling that she was being treated this way because of her race?

A Well, I certainly heard the analogy and didn't know specifically what all it encompassed and, therefore, was trying to understand it.

Q Were you concerned that there may be a racial component to the behavior of the regional management team toward Dr. Fernandes?

A I had a concern as to whether or not that was a component of what Beryl Fernandes was saying, and that was a piece of it. I wasn't sure what she was saying by it, but it certainly got my attention.

See Exhibit C to CP 638-70 at p. 38, ln. 14 – p. 39, ln. 7.

Instead of allowing Beryl to bring in an outside consultant to remedy the situation, Ms. Hoffman instead chose to initiate an investigation – an investigation that was used as a pretext for Beryl’s termination. The termination was clearly conveyed to Beryl in the letter Ms. Hoffman gave to

Beryl. This is an adverse employment action. The causal link is established by the timing of the investigation, which came on the heels of Beryl's complaints. Beryl's retaliation claim could not be more clear. As soon as Beryl gave director Hoffman information regarding workplace bullying the outside consultant option was cancelled in favor of the investigation that was clearly designed to generate the pretext for her firing.

...I went to Linda with -- first of all, and I explained to Linda, bullying is -- there's a difference between bullying white on white or black on black, and discrimination where bullying is discriminatory. It is when it's a whole group of white people as I had experienced on a person of color, and I spoke -- in this very same meeting, I spoke to Ms. Hoffman about putting herself in my shoes, because she was having a hard time understanding why I was upset about what had gone on in the workplace, and I said, Put yourself in my shoes.

CP 701-02. Only those employees hostile to Beryl were interviewed and, not surprisingly, the employees who had been hostile toward Beryl from the start gave statements critical of Beryl. Beryl's only performance evaluation is positive and those she worked with outside the department held her work in high regard. CP 916-17; *Exhibit L*, and *Exhibit M* to CP 638-70.

5. Plaintiff Was Wrongfully Discharged

To establish a prima facie case of racial discharge under RCW 49.60.180, a plaintiff must show that (1) she was a member of a protected class; (2) was discharged; (3) was doing satisfactory work; and (4) was

replaced by someone not in the protected class. *Jones v. Kitsap County Sanitary Landfill, Inc.*, 60 Wn. App. 369, 371, 803 P.2d 841 (1991) (citing *Grimwood v. University of Puget Sound*, 110 Wn.2d 355, 362, 753 P.2d 517 (1988); *Hatfield v. Columbia Federal Savings Bank*, 57 Wn. App. 876, 790 P.2d 1258 (1990)). If the defendant establishes a nondiscriminatory reason for the termination, plaintiff can overcome this by showing that the reason given is mere pretext. *Jones* at 371. Plaintiff's burden is one of production, not persuasion. *Jones* at 372-73.

Beryl is a member of numerous protected classes based on her race, gender, and age. Beryl was terminated on October 4, 2004 and only after was she given an option to resign. At the very least this was a constructive discharge as she was forced to resign both by the intolerable working conditions and the fact that she had been fired. Beryl was doing satisfactory work. Her only performance evaluation is positive. CP 916-17. Beryl was replaced by a white male in his 50s. Beryl has clearly met each of the elements of a racial discharge claim.

Beryl can also establish a claim of wrongful discharge in violation of public policy. In 1984 the Washington Supreme Court first recognized the tort of wrongful discharge in violation of public policy. In *Thompson v. St. Regis Paper Co.*, 102 Wn.2d 219, 655 P.2d 1084 (1984), the court announced: "We join the growing majority of jurisdictions and recognize a

cause of action in tort for wrongful discharge if the discharge of the employee contravenes a clear mandate of public policy.” *Thompson* at 232.

Wrongful discharge claims are available to both public and private employees without distinction. *See e.g.: Smith v. Bates Tech. College*, 139 Wn.2d 793, 807, 991 P.2d 1135 (2000) (public); *Thompson v. St. Regis Paper Co.*, 102 Wn.2d 219, 655 P.2d 1084 (1984) (private).

An employee who quits can establish a constructive discharge wrongful termination claim by proving that her employer deliberately created intolerable working conditions, forcing the employee to resign. *Korlund v. Dyncorp Tri-Cities Services, Inc.*, 156 Wn.2d 168, 180, 125 P.3d 119 (2005); *Wahl v. Dash Point Family Dental Clinic, Inc.*, 144 Wn. App. 34, 181 P.3d 864 (2008); *Bulaich v. AT&T Info. Sys.*, 113 Wn.2d 254, 258-61, 778 P.2d 1031 (1989) (embracing the doctrine of constructive discharge, “[f]or we recognize that insidious acts are able to erode the Legislature’s laudable goals just as effectively, and perhaps in a more demoralizing fashion, than a direct termination would otherwise accomplish.”).

The Washington Supreme Court has developed a four-part test for satisfying a claim of wrongful discharge in violation of public policy: (1) plaintiff must prove the existence of a clear public policy (the clarity

element); (2) plaintiff must prove that discouraging the conduct in which she engaged would jeopardize the public policy (the jeopardy element); plaintiff must prove that the public-policy-linked conduct caused the dismissal (the causation element); and (4) the defendant must not be able to offer an overriding justification for the dismissal (the absence of justification element). *Gardner v. Loomis Armored Inc.*, 128 Wn.2d 931, 941 913 P.2d 377 (1996). The plaintiff bears the burden of establishing the first three elements to satisfy a *prima facie* case, at which point the burden of production shifts to the defendant. “Once a plaintiff shows the violation of a public policy, the burden shifts to the employer to prove the dismissal was for reasons other than those alleged by the employee.” *Id.* at 936. If the employer articulates a legitimate justification for termination, then the burden of persuasion reverts back to the plaintiff. *Wilmot v. Kaiser Aluminum and Chem. Corp.*, 118 Wn.2d 46, 72, 821 P.2d 18 (1991).

The Washington Law Against Discrimination evidences a clear public policy in Washington against age, race, and sex discrimination. Discouraging employees in Washington from reporting race-based workplace harassment would clearly jeopardize the public policy against discrimination. As explained, *supra*, Beryl’s complaints of discrimination led to her dismissal as the option of an outside consultant was scrapped in

favor of an investigation by an attorney that created a pretext for Beryl's termination. Defendants' explanation for the dismissal is not an overriding justification. The defendants' claim is, in essence, that Beryl was unable to communicate and collaborate with people who were harassing and undermining her. They are blaming the victim.

F. Conclusion

The lower court erred when it dismissed plaintiff's causes of action for race discrimination, retaliation, and wrongful discharge. The evidence presented, when viewed in the light most favorable to the plaintiff and when viewing the totality of the circumstances, demonstrates that genuine issues of material fact exist making summary judgment improper on these causes of action. Plaintiff respectfully requests that the Court of Appeals reverse the lower court's order dismissing these causes of action and remand this matter for a jury trial.

RESPECTFULLY SUBMITTED this 19th day of July, 2010.

THADDEUS P. MARTIN &
ASSOCIATES

By 

Thaddeus P. Martin, WSBA 28175
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I am not a party to this action and that I placed for service on counsel of record the foregoing document via legal messenger on the 19th day of July, 2010.

Persons served:


Corie Hanson, ~~Legal Assistant~~ Paralegal

FILED
COURT OF APPEALS
10 JUL 19 AM 10:51
STATE OF MISSISSIPPI
BY sm
JERRY

EXHIBIT A

1 wrote and wrote, whole time, and that continued to be her
2 trait as long as I knew her.

3 Q Did you get along well with her or think well of her, at least
4 initially?

5 A I didn't have any -- I mean, I've never had any problems,
6 shall I say.

7 Q Was she meaningfully involved in the hiring process for the
8 regional director position?

9 A The hiring process involved literally the entire agency. It
10 started at I think eight in the morning and finished at five.
11 They had, you know, half-hour blocks, one-hour blocks -- I
12 mean, they were just one to the other. It was -- you would
13 think you were applying for, you know, vice president of the
14 United States, and they had different sections and different
15 programs meeting with you and I mean just incredible. So,
16 yes, Joy may have been at every one of -- I don't quite
17 remember but certainly at the majority -- majority of the
18 interviews.

19 Q Did Joy support you for the position or support the concept of
20 hiring you for that position?

21 A I -- you know, I don't know who was behind scenes and what. I
22 would imagine so. She was certainly very supportive once I
23 was on board.

24 Q Do you recall or believe that you first met Joy at the same
25 time that you met Tom?

1 A It depends on how it's addressed. Very, very important, the
2 how. Because I think it's possible, and I've seen it happen,
3 where people come in with we're gonna have a diversity, we're
4 gonna have race and social justice initiative and it backfires
5 because there are people within the organization that it hits
6 in a way that's very threatening or I don't know, whatever.
7 But the backlash from that is incredible and the backlash hits
8 the people of color, exactly the people of color you're trying
9 to help.

10 So the way in which it is -- it is put in place, has to
11 be attended to, and quite honestly, I, you know, I felt that I
12 had the kind of sensitivity and the experience that I could
13 help the agency navigate through that in a way that could, you
14 know, maybe that's being presumptuous but I -- I really do
15 think I -- I have my antenna out and do -- so they're --
16 they're a waste. And I, you know, I don't know what's gonna
17 come out of all this lawsuit thingy, but I would love to
18 see -- to would love to help that agency and other natural
19 resource agencies at the State with strategizing on how best
20 to do this so we don't alienate one group of people while
21 we're trying to help one group, rather we're bringing
22 everybody together and going in the same direction that's go
23 [sic], you know, anyway.

24 Q Did anyone at DOE ever express to you that they found either
25 the Department's or your focus on diversity to be problematic

1 in their view?

2 A Nobody at the manage -- at the, you know, none of my -- so
3 neither Tom Fitzsimmons, no. And quite honestly, I didn't
4 have a focus on it, the Regional Management Team, and I only
5 got that when I saw the investigator's report that somebody
6 had said that.

7 Q I'm sorry, had said what?

8 A Had said that, you know, she, you know --

9 Q Oh --

10 A -- she --

11 Q -- gotcha.

12 A -- has too much to focus on.

13 Q Gotcha.

14 A And that was, I mean, that was ridiculous because I had this
15 huge not only geographic area but huge span of environmental
16 pro -- programs too. I mean, just incredible number of things
17 so my fingers were in everything of which diversity was just
18 one. Tom Fitzsimmons asked me very specific [sic], see what
19 you can do. I mean, we've had, you know, challenges there;
20 see what you can do in that -- with that team.

21 So one of the things I suggested to them in the beginning
22 was, hey, you know, the people upstairs -- and they were like
23 literally three floors above -- have asked us to, you know,
24 see what we can do, and -- and at that time I had -- I did not
25 know about Randy Davis. I didn't even know who he was. I

1 didn't know the specifics, I didn't know that there were, you
2 know, specific legal actions taking place so I just thought it
3 was general discontent there. So I suggested that the
4 Regional Management Team submit suggestions for what we could
5 do to improve diversity within the Southwest Regional Office
6 and then we as a group collectively would, you know, pick one
7 and say, hey, this one has great merit, and whoever happens to
8 be the winner that week or month or whatever, I would take
9 them out for lunch. I thought it was pretty innocuous, you
10 know. That got translated as being she has too much of a
11 focus on -- and -- and that's the only, the only time I
12 brought that up, with the team, Regional Management Team.

13 Q Did you only find out that anyone might have seen it that way
14 after you saw the investigation --

15 A Yes.

16 Q -- report?

17 A That is "thee" only time, "thee" only time I saw it, yeah.

18 Q What do you think about the concept of reverse discrimination?

19 A I don't, you know, I don't -- it's a concept.

20 Q Do you think it exists; do you think it's real?

21 MR. MARTIN: Can you define --

22 A Hypothetical.

23 MR. RICHMOND: I'm sorry?

24 MR. MARTIN: Can you define what that is; are you
25 talking about discrimination against white people?

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

BERYL FERNANDES, a single person,)
)
 Plaintiff,)
)
 v.) No. 07-2-02174-1
)
 JAY MANNING, Director, Department)
 of Ecology, and the DEPARTMENT OF)
 ECOLOGY, and the STATE OF)
 WASHINGTON,)
)
 Defendants.)
)

DEPOSITION UPON ORAL EXAMINATION OF
BERYL A. FERNANDES VOLUME 2

Tuesday, September 1, 2009
Tacoma, Washington

APPEARANCES:

For the Plaintiffs: MR. THADDEUS MARTIN
Attorney at Law
4002 Tacoma Mall Boulevard, Suite 102
Tacoma, Washington 98401

For the Defendants: MR. EL SHON RICHMOND
Assistant Attorney General
Office of the Attorney General
7141 Cleanwater Drive SW
PO Box 40126
Olympia, Washington 98504-0126

1 mean, discrimination and hostility and all -- are all part of
2 managing a -- a -- a -- you know, a diverse work force, and I
3 would imagine that if they were being thorough in what they
4 were doing, they would have covered all of that. So I -- I
5 don't know because I -- so I don't know what their work scopes
6 entailed. But in -- Joy St. Germain and I both interviewed
7 all of the consultants, the candidates for this consultant
8 position, and we went through the questions, you know; we had
9 questions that we had developed together and they included,
10 you know, issue -- all kinds of issues including issues of
11 diversity, I mean, would have been the elephant in the room if
12 we hadn't dealt with that, used, and I thought that was a --
13 that was "thee" most constructive way to deal with this issue
14 at Ecology at that time. And that an investigation was gonna
15 be totally disruptive, total counterproductive, totally
16 destructive, and look at the mess we're in now because of
17 that.

18 Q Just to ask it more directly, why were you so unhappy with
19 Ms. Hoffman's decision to put the consultant on hold and
20 pursue an investigation into the RMT based on your complaints
21 about bullying and abusive conduct or treatment?

22 A Mm-hmm. Well, as we saw, the investigation did not turn out
23 to be an investigation of each of the RMT members, it turned
24 out to be an investigation of me and here, tell us everything
25 negative you know about Beryl. I mean, she basically incited

1 Q I'm sorry, gave her those examples when?

2 A When I went to see her as well as in the -- you'll see in
3 numerous e-mails from me to her, these things are reiterated
4 again. So -- and I said, this is not just about me, this
5 situation is about the Southwest Regional Office -- excuse
6 me -- and how -- excuse me, give me a second here -- and it's
7 about how our -- how we as Ecology treat our customers out
8 there and how they are reporting back to us, to me in
9 particular as the regional director, I was out there, how they
10 are saying they are being treated by staff. So it's all of
11 these taken together including me. Now, I had to go into
12 those meetings with the RMT every single week so I probably
13 had a more intensive dose of -- of this treatment, but it was
14 symptomatic of a much wider issue.

15 Q You certainly, though, communicated to Ms. Hoffman that you
16 perceived yourself to have been a victim of bullying tactics
17 and/or -- well, not and/or, and abusive treatment from the
18 other managers including, and I guess most specifically, at
19 the second facilitated meeting between you and the RMT that
20 was conducted by Polly Zehm?

21 A Ms. Hoffman, when I sat -- when I sat there in one of those
22 three-hour interrogations that she put me through, tried to
23 get me to say that I was a victim. And I said wait a second,
24 you're putting words in my mouth. I'm talking to you about
25 this literature from the Workplace Bullying Institute where

1 they talk about a target, they talk about victims, they talk
2 about bullying, they talk about hostility, and we -- so she's
3 brought all of that together with what I told her about the --
4 the people being sent to the hospital, people from outside
5 complaining. And -- and now saying, well, these are the
6 things specific, and she was looking for a reason to do the
7 investigation, okay. This is -- this is the way it -- it --
8 it -- it seems very clear to me in hindsight now and -- and
9 even -- it was clear then too, but, I mean, it's much clearer
10 now because of all the evidence we now have that it was -- she
11 was looking for a reason to not do the management consultant
12 thing but to do the investigation. Through the investigation
13 you -- she could get and document -- try to get from the RMT
14 as much negative commentary about me.

15 Q Why --

16 A Look at --

17 Q -- why are you --

18 A Well --

19 Q Why do you -- what leads you to that conclusion --

20 A Well --

21 Q -- particularly given the fact that she apparently was already
22 receiving communication -- some of it at your request from the
23 RMT or the program managers --

24 A Program managers --

25 Q -- regarding concerns about your communication performance --

1 A Yeah.

2 Q -- relationships, et cetera, why would she need to do an
3 investigation to get --

4 A Exactly.

5 Q -- the -- to get the same thing or something related?

6 A She didn't need to. She absolutely didn't need --

7 Q So why do --

8 A -- to.

9 Q -- conclude that --

10 A The --

11 Q -- she was --

12 A -- program --

13 Q -- trying --

14 A -- managers --

15 Q -- to do that?

16 A -- if you look at the program managers' letters, they are not
17 all negative. In fact, we'll -- I can go through and we'll
18 pull out all the positive stuff they're saying and then the --
19 yes, you -- the relationship with the RMT needs to be worked
20 out, but that's very different from the tenor now. And let me
21 say why.

22 She said, well, when -- and all the staff, her own staff,
23 well, I had 12 staff. You look at the Boodell report, Linda
24 Hoffman had them interview only two, Pam Berns. Pam Berns is
25 the woman who was taking two weeks off four times a year to go

1 visit her boyfriend in Colorado and asked me to sign her leave
2 slip. I refused to do it. I was the first regional director
3 to ever refuse to sign her slip to do that. All the previous
4 ones had done it. So she was mad at me, she was furious that
5 I had refused to do it and then secondly had reported that to
6 Linda Hoffman to Tom Fitzsimmons and to -- and to Boodell.

7 Q Hold up --

8 A Okay.

9 Q -- one --

10 A So there --

11 Q -- minute --

12 A -- and --

13 Q Why are you saying she -- are you saying she reported that
14 your conversation about Mr. Davis --

15 A No, no, no. This is not --

16 Q -- to these --

17 A -- Davis.

18 Q -- other folks?

19 A This is -- this conversation had nothing to do with Davis.

20 This was --

21 Q What -- what --

22 A -- had to do with Pam Berns that -- that Hoffman's
23 investigation, she was able to -- not able to -- she did hand
24 pick. This was not an objective investigation, it was a very
25 heavily weighted towards let-me-figure-out-who-has-negative-

1 things-to-say-about-Beryl and only have them. Because of the
2 12 staff in my office, she picked the two who had the most to
3 complain about, Lorna, who I was not going to -- I was not
4 gonna extent her temporary position as confidential secretary
5 and was -- she was gonna have another poor evaluation. And so
6 she picked her and she picked Pam Berns, both of whom were --

7 Q Let me interject.

8 A Yeah.

9 Q What is your reason for asserting that -- if I'm hearing you
10 right, that Linda Hoffman chose who would be investigated as
11 opposed to Mr. Boodell?

12 A Because Mr. Boodell did not know the landscape. Ms. --
13 Ms. Hoffman is the one who gave Mr. Boodell the names of
14 people to talk to.

15 Q But you also gave them names, didn't you?

16 A I gave a big list of names --

17 Q And --

18 A -- but they --

19 Q -- and he interviewed --

20 A -- did not.

21 Q -- some of those people?

22 A No.

23 Q In fact, doesn't the documentation reflect that he delayed his
24 report because there was someone he wanted to talk to that you
25 had recommended that he talk to that he felt was appropriate?

1 before, in my interrogatory responses, and all the
2 documentation I've submitted up this point. It is impossible
3 in this short time to list everything that's in there.

4 Q Is it fair to say that there's no other particularly or
5 specific evidence that comes to your mind as you sit here
6 right now that you would add to the list that we've discussed
7 over the last couple of hours or last hour?

8 A And -- and to what has already been submitted to the State, I
9 would say if that's the case, then I will say okay but --

10 Q To make sure --

11 A -- it is --

12 Q -- the record is clear, is it fair for me to understand that
13 there's no other specific piece of evidence that comes to your
14 mind right now that supports your claim of unlawful or
15 discriminatory motive on behalf of Ms. Hoffman or DOE in this
16 case other than what we've discussed today?

17 A No. There is a lot that's been --

18 Q Specifically --

19 A -- that in --

20 Q -- that comes --

21 A -- addition to --

22 Q -- to mind?

23 A -- what we've discussed -- in addition to what we've discussed
24 today.

25 Q Any other specific piece of evidence, specific e-mail,

EXAMINATION (Continuing)

1
2 BY MR. RICHMOND:

3 Q Handing you what has been marked as Exhibit 14, this appears
4 to be an e-mail from Paula Ehlers to herself and Gordon White.
5 Have you ever seen this document?

6 A I can't immediately recall.

7 Q In it she talks about some difficult communications with you.
8 In the second paragraph she talks about her attempt back in
9 September '03 to bring up the communication problems
10 apparently that you and she had had in the past and indicated
11 that she had tried to discuss that with you before but you had
12 never responded but that she, Paula, was committed to trying
13 to improve your communications and suggested that it would
14 help if you would try to own your part of the problem too.
15 And she says that didn't go very well and the conversation
16 ended after you referred to her as belligerent and she thought
17 she should leave. Is that a reasonably accurate recitation of
18 the in-person conversation that you and Ms. Ehlers had in
19 September of 2003?

20 A No, it is not.

21 Q Is any part of that accurate?

22 A The part where referred to her as ...

23 Q Belligerent?

24 A Well, yeah. Well, I -- what I said is this is -- this is
25 sounding more belligerent than is constructive in this kind of

EXHIBIT C

- 1 Q And do you know what that one person's ethnic background
2 was?
- 3 A African-American.
- 4 Q Do you know what position that person was hired for?
- 5 A I do.
- 6 Q What position was that?
- 7 A Clerk of the Board of County Commissioners.
- 8 Q Do you know what that person is doing now?
- 9 A She is there.
- 10 Q Same position?
- 11 A Mm-hm. Yes.
- 12 Q When was it that you hired her?
- 13 A I don't recall.
- 14 Q Do you know Tom Fitzsimmons?
- 15 A I do.
- 16 Q When did you first meet Tom Fitzsimmons?
- 17 A When he came to Thurston County, and I'm trying to
18 remember the year.
- 19 Q Okay.
- 20 A I think that would be 1986 or 1987.
- 21 Q And what was your relationship to Tom Fitzsimmons at that
22 time?
- 23 A When he came?
- 24 Q Yes.
- 25 A I'm trying to remember.

1 I was working for Thurston Regional Planning Council
2 when he came. So I didn't have a direct relationship.

3 Q Not a working relationship, where you interacted for
4 work?

5 A Oh. I misunderstood.

6 Well, Thurston County was a member of Thurston
7 Regional Planning Council. So we -- when I was at
8 Thurston Regional Planning Council, we provided service
9 to Thurston County Planning Service. And in that
10 capacity, I had occasion to meet with Mr. Fitzsimmons and
11 work with him on certain projects.

12 Q Would you say you have a friendly relationship with him?

13 MR. RICHMOND: Objection. Form.
14 Vague as to time in particular.

15 You may answer.

16 Q (By Mr. Mares) Let me try and fix that.

17 Now would you say that you have a friendly
18 relationship with Tom Fitzsimmons, as of this date?

19 A Do I --

20 Q Are you friends with Tom Fitzsimmons now?

21 A Yes.

22 Q And do you have any sort of family connections to
23 Mr. Fitzsimmons? Is your husband friendly with
24 Mr. Fitzsimmons?

25 A Yes.

1 that he may have -- that there may be a case that could
2 be made regarding his complaint.

3 Q And that was a discrimination complaint?

4 A Disparate treatment, as I recall. Discrimination, yes.

5 Q And you mentioned there was a lawsuit. Were you named as
6 a defendant in that lawsuit?

7 A I was.

8 Q Now, did the Department of Ecology take the position that
9 the allegations of its staff of color were
10 unsubstantiated?

11 A I don't understand your question.

12 Q In that lawsuit -- and let's also include the EEOC
13 investigation -- did the Department of Ecology take the
14 position that the allegations made by its staff members
15 of color, that those allegations were unsubstantiated?

16 A I'm having a hard time with that question.

17 Q I had a little trouble getting it out too.

18 A I don't understand the question.

19 Q Okay.

20 A What allegations, from what staff of color --

21 Q Well, there was a lawsuit involving -- I'm sorry. I
22 didn't mean to cut you off.

23 A No, go ahead.

24 Q There was a lawsuit involving Randy Davis against the
25 Department of Ecology, yourself, and other named

1 defendants; is that right?

2 A Correct.

3 Q And there were allegations made by an African-American
4 former employee that he had been discriminated against by
5 the Department of Ecology; is that correct?

6 MR. RICHMOND: Objection. Form.

7 A What former employee? I don't understand.

8 Q (By Mr. Mares) Randy Davis.

9 A Oh. I didn't know you were referring to Randy.

10 Q Okay.

11 A Could you restate it again?

12 Q Sure. Sure.

13 Randy Davis alleged in his lawsuit that he had been
14 discriminated against by the Department of Ecology; is
15 that correct?

16 A Yes.

17 Q And in that lawsuit, did the Department of Ecology take
18 the position that Randy Davis's allegations were
19 unsubstantiated?

20 A Yes.

21 MR. RICHMOND: Objection to form.

22 Q (By Mr. Mares) Did the Department of Ecology take the
23 position that there was just a small group of disgruntled
24 employees?

25 MR. RICHMOND: Objection. Form, lack

1 want to make a four-year commitment, even if she wanted
2 me. And so I decided -- I communicated that I -- I did
3 not -- I was not seeking the director position, and I
4 would serve until she made an appointment.

5 Q Were you ever disciplined in any way while you were
6 employed at the Department of Ecology?

7 A No.

8 Q Let's go back to the outside consultant. And I believe
9 you testified -- and please correct me if I'm wrong --
10 that the outside consultant was put on hold and you were
11 going to pursue a different avenue to deal with the
12 issues that had arisen. Is that accurate?

13 A It is accurate. And I communicated to Beryl that,
14 because of the serious nature of the concerns that she
15 had raised, that we would need to investigate those
16 concerns.

17 Q And what was the serious nature of those concerns?

18 A She raised concerns about an abusive work environment,
19 abusive and hostile work environment, and explained that
20 she was -- at one point, I think she used the word
21 "terrified" because of the abusive and hostile work
22 environment. And bullying, bullying that was occurring.

23 Q And what did she say she was terrified of?

24 A I remember the use of the word. I don't remember the
25 full sentence, but she was terrified of the situation,

1 the -- I don't remember the specifics of the sentence,
2 but I do remember the word "terrified."

3 It made an impression on me when she used those
4 terms.

5 Q And what was the substance of her complaints to you?

6 MR. RICHMOND: Objection. Form. I
7 think asked and answered, among other objections.

8 Q (By Mr. Mares) And I'm looking for the details of what
9 she told you around the time when the word "terrified"
10 came up.

11 A When she first raised this, using those terms, was in the
12 first half of April, and it was on a phone call with the
13 consultants, David and Natalie. And the context was
14 discussion of the scope of work of the consultant. We
15 were seeking to reach agreement on the scope of work so
16 that they could be under the contract and begin that
17 work.

18 And Beryl was -- as we were discussing the scope of
19 work, she was explaining, as I recall, concerns about how
20 the Regional Management Team would be involved.

21 And in expressing those concerns, she used -- she
22 depicted the nature of the relationship as being abusive
23 and bullying and a hostile work environment, and that was
24 the first time that I had heard them characterized that
25 way by her.

1 Q And was it the uttering of those specific words that
2 caused you to decide to put the outside consultant on
3 hold and, instead, conduct an investigation?

4 A That was the impetus behind it, yes. And further
5 discussion with Beryl about that and -- yes.

6 Q Did Dr. Fernandes express to you that she was terrified
7 that some physical harm was going to come to her?

8 A No. I did not hear it that way.

9 Q When you said you didn't hear it that way, you didn't
10 take it to mean that?

11 A Correct.

12 MR. MARES: I want to just state on
13 the record that yesterday my office received 359 pages of
14 documents that, as far as I know, some of which have not
15 been produced before. I have not had an opportunity to
16 review all of these documents prior to this deposition.

17 Q (By Mr. Mares) Ms. Hoffman, did you produce documents
18 yesterday or sometime in the recent past regarding this
19 case?

20 A I did not produce the documents.

21 Q You did not?

22 A Correct.

23 Q Do you know who did?

24 A I believe the Department of Ecology produced them.

25 Q I don't mean to take a lot of time on this. I know that

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

BERYL FERNANDES, a single person,)
)
) Plaintiff,)
) vs.) No. 07-2-02174-1
)
JAY MANNING, Director, Department)
of Ecology, and the DEPARTMENT OF)
ECOLOGY, and the STATE OF)
WASHINGTON,)
) Defendants.)

DEPOSITION OF LINDA H. HOFFMAN, VOLUME II

September 24, 2009

Tumwater, Washington

Byers & Anderson, Inc.

Court Reporters/Video/Videoconferencing

One Union Square 2208 North 30th Street, Suite 202
600 University St. Tacoma, WA 98403
Suite 2300 (253) 627-6401
Seattle, WA 98101 (253) 383-4884 Fax
(206) 340-1316 scheduling@byersanderson.com
(800) 649-2034 www.byersanderson.com

Serving Washington's Legal Community

Since 1980

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BE IT REMEMBERED that on Thursday,
September 24, 2009, at 7141 Cleanwater Drive SW,
Tumwater, Washington, at 2:25 p.m., before BARBARA
CASTROW, CCR, RPR, Notary Public in and for the State of
Washington, appeared LINDA H. HOFFMAN, VOLUME II, the
witness herein;

WHEREUPON, the following proceedings
were continued, to wit:

<<<<<< >>>>>>

LINDA H. HOFFMAN, having been first duly resworn
by the Notary, deposed and
testified as follows:

EXAMINATION

BY MR. MARES:

Q Good afternoon, Ms. Hoffman. Thank you for coming back.
It's nice to see you again.

Have you, since your last session of this
deposition, spoken with anyone other than counsel
regarding Beryl Fernandes or your deposition or any of
the issues surrounding this case?

A I think just counsel.

Q You haven't spoken with Tom Fitzsimmons about it?

1 A I don't believe so.

2 Q I would like to hand you -- actually, I will have this
3 marked.

4 (Exhibit No. 3 marked
5 for identification.)
6

7 Q (By Mr. Mares) I may or may not have shown that to you
8 last time. If you would, take a look at it and tell me
9 if that is something you wrote or not.

10 A You want to know if I wrote this?

11 Q Yes.

12 A No, I did not.

13 Q That's not your handwriting?

14 A No.

15 Q Do you recognize that handwriting?

16 A Not conclusively.

17 Q Okay. Do you have a suspicion of whose handwriting it
18 might be?

19 MR. RICHMOND: Objection; form.

20 THE WITNESS: It could possibly be Joy
21 St. Germain's. It looks similar to Joy's.

22 Q (By Mr. Mares) Do you recall ever hearing Beryl
23 Fernandes say that any event that occurred with her at
24 Ecology was like a lynching or similar to a lynching?

25 A Yes.

1 Q And what do you recall about that?

2 A I recall that she -- at least my best recollection is
3 that she was referring to one of the mini retreats or
4 work sessions that was held in 2003 -- well, now which
5 year was it? 2003. Wait. Yeah, that would be 2003. It
6 would be September probably of 2003.

7 Q Okay. And what was your understanding of what she said
8 about that being a lynching? What do you -- what do you
9 recall her saying?

10 MR. RICHMOND: Objection; form.

11 THE WITNESS: She was expressing
12 concern about the nature of the interactions at the
13 retreat.

14 Q (By Mr. Mares) And do you recall her mentioning that all
15 the people at the retreat besides herself were white?

16 A No.

17 Q Or anything to that effect, Caucasian, or did she maybe
18 use a different term?

19 A I don't recall specifically the words.

20 Q Do you recall her saying that she felt like she had been
21 ganged up on?

22 A Something to that effect. Again, I don't remember the
23 exact words, but something to that effect, yes.

24 (Exhibit No. 4 marked
25 for identification.)

EXHIBIT L



DATE: June 25, 2008
TO: Beryl Fernandes
FROM: Carol Butler
Corporate Performance Director
SUBJECT: Consulting Contract Performance Evaluation

Beryl Fernandes was hired by Seattle City Light (SCL) to perform a highly specific body of work in conjunction with a new initiative. This engagement required Beryl to conduct background research; interview managers, directors, and executive officers at SCL; complete logic model worksheets after each interview; and prepare a final report as well as completing other related tasks. Beryl completed all work within the allotted time frame and met all obligations under the contract.

SCL would highly recommend Beryl as her performance was of the highest caliber. Her work product met SCL's expectations and often exceeded what was required by the contract. For example, she was to conduct 50-60 interviews but instead conducted over 70 interviews in a compressed time frame.

There is no doubt that I would hire her again and, in fact, SCL expects to use her for additional work in the future as other opportunities arise. If you have any questions or would like additional information, please feel free to contact me at: 206-615-1249 or at carol.butler@seattle.gov.

January 26, 2009

TO WHOM IT MAY CONCERN:

REFERENCE LETTER FOR BERY FERNANDES



Beryl Fernandes, Ph.D., President of Fernandes & Associates, Inc. of Seattle was a sub-consultant to the construction management team for the Building Excellence I program. She had prime responsibility for researching and writing the SEPA (State Environmental Policy Act) environmental reports.

Routinely scrutinized by the public for the thoroughness of environmental reviews, Ms. Fernandes' work passed the test consistently, thereby setting the stage for construction permit approvals. There were no objections from the public, which can often occur in this region; a testament to her ability to effectively scope and address the issues. Each one of the dozen or so SEPA reports was accepted by the City of Seattle, the permit granting authority.

Ms. Fernandes was also asked to provide a review of the Design Review Committee process of nine schools. That work was also well received.

Her work was consistently done on time and within the authorized budget. She was professional and pleasant in her demeanor and I would strongly recommend her as an asset to anyone considering working with her.

A handwritten signature in black ink, appearing to read "Don Gillmore".

Don Gillmore, AIA
SSD Program Manager
BEX Capital Projects
MS 22-332
PO Box 34165
Seattle, WA 98124-1165
(206) 252-0635 - (206) 252-0573 - Fax



King County

Wastewater Treatment Division
Department of Natural Resources and Parks
King Street Center, KSC-NR-0500
201 South Jackson Street
Seattle, WA 98104-3855

January 8, 2008

To Whom It May Concern:

Ms. Beryl Fernandes provided community relations services for the construction phase of the North Creek Diversion project. Beryl was a sub-consultant to the prime construction management firm Vanir Construction Management. The project constructed a 36 million gallon a day capacity pump station and approximately 23,000 feet of dual 30-inch diameter pipeline. The project construction lasted for over two years and was completed in December 1999.

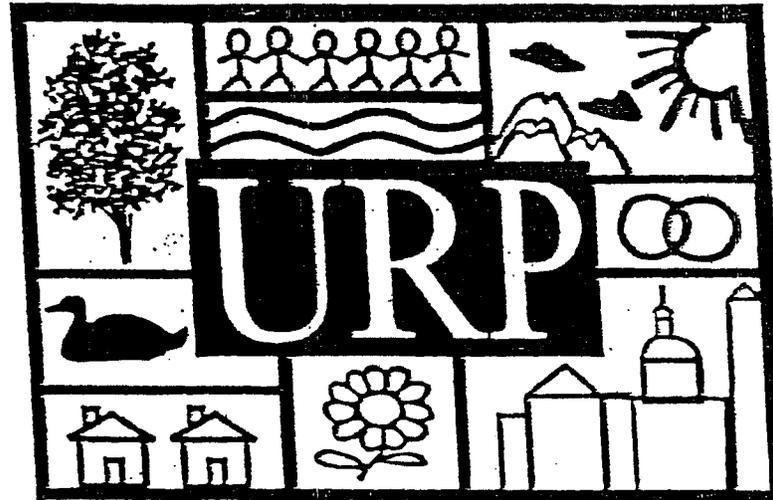
Beryl was the primary contact for the public and property owners with regard to complaints or concerns about the project construction. She was extremely professional in her work with the public and the King County construction management staff found her to be a very important and valuable team member.

I feel that Beryl would be an excellent member of any project team.

Sincerely,

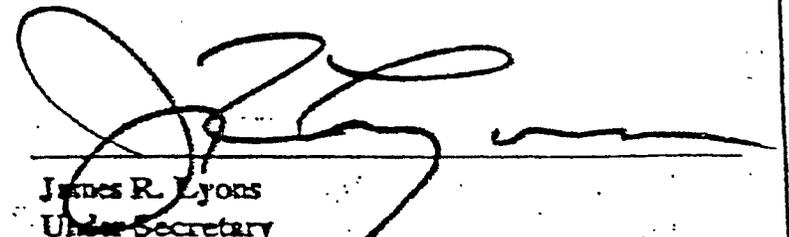
David Dittmar, PE, PMP
Capital Project Managing Supervisor
206-684-1813

COPY



Beryl Fernandes

For Outstanding Service to the Communities of *Seattle*
through the Urban Resources Partnership



James R. Lyons
Under Secretary
Natural Resources and Environment



NATURAL RESOURCES AND ENVIRONMENT

July 27, 1994

JAMES R. LYONS
ASSISTANT SECRETARY

Ms. Beryl Fernandes
Urban Resources Partnership
9527 49th Avenue NE
Seattle, Washington 98115

Dear Beryl,

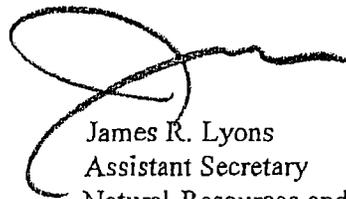
I would like to thank you for coming to Washington and spending time with our local partners. It was a pleasure to meet you; and I feel that if the Urban Resources Partnership is successful in nothing else, it should be recognized for hiring four excellent coordinators.

I appreciate your commitment to the Urban Resources Partnership Initiative. You are at the forefront of reinventing government to better serve our nation's urban communities. Your role is a challenging one--to bring people and communities together to identify local needs, and try to meet those needs with the resources your partners will bring to the effort. I hope you embrace this opportunity and make it meaningful for you, the residents of Seattle and the Urban Resources Partnership. After meeting you and the other coordinators I have confidence that you are taking this opportunity to heart. I wish you all the best, and I will lend my support in any way that I can.

I look forward to working with you in the future.

Best personal regards.

Sincerely,



James R. Lyons
Assistant Secretary
Natural Resources and Environment



King County

May 24, 1999

To Whom It May Concern:

Ms. Beryl Fernandes was a member of the North Creek Force Mains Project Team during the construction of this \$8 million sewer project. Ms. Fernandes provided community relations support for the project and was the principal contact for property owners and local citizens with questions or complains regarding this project.

In my role as Construction Manager, I found Ms. Fernandes to be extremely professional and competent in her interactions with the citizens, public agency officials and our project team. I believe her insights and people skills make her an asset to any project team.

Please feel free to give me a call if you have any questions.

Sincerely,

Tim Clark
Resident Engineer
East Satellite Construction
(206) 684-1989



Providing Resources and Community to
Gay, Lesbian, Bisexual, Transgender and Questioning Youth

Lambert House
PO Box 23111
Seattle, WA 98102
206.322.2515 v
206.322.1285 f



February 1, 2002

Non Profit Assistance Center,

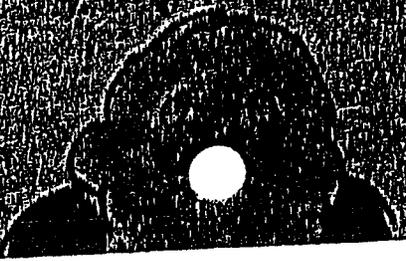
Thank you for your referral of Fernandes and Associates for a program evaluation consulting project. Against a backdrop of concerns from our agency about reporting low or not-so-favorable looking outcomes, Ms. Fernandes first reviewed the existing system used by Lambert House. She determined that although Lambert House provided a lot of services with significant outcomes, these could be much more favorably represented in the reports to the funding source. She advised us on collecting and reporting measurable outcomes accurately and more favorably. She then designed a new process for outcome-based reporting that incorporated the entire process from intake, to data collection for each service, program and event, to tabulating the results using Excel spreadsheets. She met with myself and the City of Seattle's representative, who endorsed and even praised the design, setting the stage for a favorable contract period.

Sincerely,

A handwritten signature in cursive script that reads "Miles Conrad".

Miles Conrad
Program Director
Lambert House
206.322.2515 x13

DENNIS FLANNIGAN
PIERCE COUNTY COUNCIL
980 TACOMA AVE. S. RM. 2046
TACOMA, WA 98402-2176



Center for Continuing Education in Rehabilitation

6912 220th Street SW, Suite 105
Mountlake Terrace, Washington 98043
(425) 774-4446 ☐ Fax (425) 774-9303

May 11, 1999

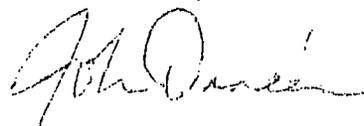
To Whom It May Concern:

Beryl Fernandes has asked me for a letter of reference to use with future projects, and I am very pleased to be able to offer my endorsement of her considerable skills. I had the opportunity to work with her when our Northshore school district ran into a potential lawsuit in the form of a neighborhood coalition that had formed to stop the construction of high school sports fields near their homes. The district and neighborhood coalition were at serious odds, and it looked like there would be no way to prevent the issue from moving into litigation.

A stakeholders group was formed, with Beryl serving to facilitate a series of meetings in hopes of reducing the anger and finding some agreement. I was impressed with her ability from the start to draw out participant values and concerns, which helped each side better understand why the other acted the way they did. Her expertise in working with all sorts of people became quickly evident. Beryl builds trust in the care she uses to listen to others, in the respect she gives to everybody, and in the fairness with which she handled decisions. It was obvious after a couple of meetings that people began to relax and focus on the process. Beryl also worked very hard outside the meetings, making sure she understood exactly every technical detail in the proposed construction, had personally talked to any person or group that had an opinion or an idea, and knew where she wanted to go next. Agreements, I learned, involved a number of steps that took us comfortably from our original "won't compromise" positions to inventing solutions, problem solving, and finding areas of agreement. Our stakeholders group reached an unanimous agreement after (roughly) six meetings. People applauded and hugged; the school board adopted our recommendations as written.

Beryl possesses extraordinary skills and professionalism, I believe, in working with difficult problems and people who are upset. She has become my role model for how best to approach a seemingly impossible negotiation situation. I'm a fan. Please feel free to call me at 425 774-4446 and I would be pleased to discuss this letter of reference.

Respectfully,



John Dineen
Training Specialist

VANIR

Construction Management, Inc.

10900 NE 8th Street
Suite 830
Bellevue, WA 98004
(425) 577-0095

June 9, 2000

To Whom It May Concern:

This letter is to confirm that Fernandes & Associates provided community relations services as a sub-consultant to Vanir Construction Management on the King County North Creek Diversion Project during the period from May 1997 through February 2000. The scope of the project included construction of a new 36 million gallon per day pump station in Bothell and approximately 4.5 miles of twin 30 inch force main sewer between the new pump station in Bothell and the existing York Pump Station in Woodinville. The total construction value was approximately \$17 million. The scope of services provided by Ms. Fernandes included preparation of a Community Relations Plan, identification of businesses and property owners/managers that would be affected by construction work, dissemination of information to the community through personal, telephone, and fax contact in addition to creation and distribution of periodic newsletters. Ms. Fernandes also attended and participated in weekly construction progress review meetings with the County, CM staff, and contractor. Finally, Ms. Fernandes assisted in the preparation of monthly construction status reports that were distributed to County and design team representatives.

Ms. Fernandes' knowledge of the community relations business, the County organization, and her competent handling of occasionally challenging issues were key components in the successful management of this project.

Sincerely,



David P. Breen
Project Manager



TESTIMONIALS

“Award for Outstanding Service to the Communities of Seattle through the Urban Resources Partnership”, James R. Lyons, Former U.S. Under Secretary, Natural Resources and Environment

“SCL would highly recommend Beryl as her performance was of the highest caliber. Her work product met SCL’s expectations and often exceeded what was required by the contract. There is no doubt that I would hire her again and, in fact, SCL expects to use her for additional work in the future as other opportunities arise.”

Carol Butler, Director, Corporate Performance Division, Seattle City Light

“I am very pleased to offer my endorsement of her (Beryl Fernandes) considerable skills. I had the opportunity to work with her when our Northshore School District ran into a potential lawsuit...the District and neighborhood were at serious odds, and it looked like there would be no way to prevent the issue from moving into litigation...”

I was impressed with her ability from the start to draw out participant values and concerns...Her expertise in working with all sorts of people became quickly evident. Beryl builds trust in the care she uses to listen to others, in the respect she gives to everybody, and in the fairness with which she handled decisions...Beryl also worked very hard outside the meetings, making sure she understood exactly every technical detail in the proposed construction, had personally talked to any person or group, and knew where she wanted to go next. Agreements, I learned, involved a number of steps that took us comfortably from our original “won’t compromise” positions to inventing solutions, problem solving, and finding areas of agreement. Our stakeholders group reached unanimous agreement in after (roughly) six meetings. People applauded and hugged; the school board adopted our recommendations as written.

Beryl possesses extraordinary skills and professionalism, I believe, in working with difficult problems and people who are upset. She has become my role model for how best to approach a seemingly impossible negotiation situation. I’m a fan.”

John Dineen, Stakeholder Committee Member, Bothell High School parent

“Beryl Fernandes was the Assistant Council Administrator and one of three policy staff the new County Council hired. She handled the departments of Planning, Public Works and Human Services.

She demonstrated a tremendous breadth and depth of understanding of County and regional issues and was an analyst the Council could readily rely on. She was a thorough researcher and able to carefully critique highly technical and multi-disciplinary subject

areas while showing a sensitive understanding of the political process in her recommendations.

Beryl has excellent communication skills and provided each of the Councilmembers and the whole body clear and succinct briefings. She got along very well with all the Councilmembers, Democrat and Republican alike. Although a newcomer to Snohomish County, she was very adaptable and quickly got to know and gained the respect of community representatives and the County Executive's staff.

Beryl served our Council until she left to become a policy analyst for the Seattle City Council. I recommend her strongly. She will undoubtedly bring with her enthusiasm, cheerfulness, warmth, a sense of humor and ofcourse a willingness to work hard, hallmarks of her tenure with us."

Clifford Bailey, Former Chairman, Snohomish County Council

Beryl, I value very much your attitude. Remember about 2 years ago, I approached you at the diversity party, and said something like: we need a person like you to be our ambassador? I think you have tried very hard to do that. There are many people at Ecology who are missing you, Beryl. When your name is mentioned there is a feel of certain nostalgia after your departure. Please take care.

"Dear Beryl,

As the year ends I use this time to renew contacts. Naturally, you come to mind when I think of the people who made it possible for me to continue fighting for my life. Beryl, with regret I am bringing this unfortunate news from last week: my cancer is back. I had radical surgery in January 2005, hoping that more time could be bought, or borrowed."

Marcel Szyszkowski, Deceased, Former Ecology Engineer

"Hi Beryl,

Thank you for all your good work at Ecology (as Regional Director). Your valiant effort (on the Port of Vancouver project) was far and away better than I have ever seen in a state agency. I wish you the very best in your new endeavors".

Larry Paulson,
(Attorney) Executive Director, Port of Vancouver

"Her knowledge and interests are broad and her analytical abilities are excellent. Her demanding intellect has given her the admirable ability to quickly discern "b.s." and a low tolerance for it. She is articulate and sensitive.

The quality of her work is superb. She is a pleasure to work with and her integrity unassailable...Of particular value to a state with over 250 separate governments is her

expertise with the various jurisdictions and her sensitivity to their ethnic and geographic constituencies.”

Paul Sikora, Land Use Attorney, Formerly with Maltman, Reed, North, Ahrens & Malnati, P.S.

“Beryl,

I hope you and your volunteers (up to 10) can make this (*Thanksgiving Dinner with Gov Gregoire and President Emmert*). I know the students would love to see and thank you all for your efforts”

GZ (George Zeno, U. of Washington) RE: Katrina Bikes – www.katrinabikes.org project spearheaded by Beryl

“I told him I have very high regard for you...”

Tom Fitzsimmons, Former Washington Governor’s Chief of Staff, and
Former Director, Washington State Department of Ecology

“It (*Logic Model summary*) looks good. I didn’t have to make any changes.” Pawel Krupa, *Seattle City Light*

“Thanks for doing such a complete job!”, Barbara Greene, Manager, *Boundary Relicensing Project, Seattle City Light*

“Thanks for all your help”. Peggy Gramling, *Seattle City Light*

“Hello Beryl

This (Draft) looks very good and reflective of our discussion.

Thank you for your attention.”

Tom Greely, *Seattle City Light*

“Beryl: Your summary looked pretty accurate to me...I think you nailed it.

Steve Crume
Joint-Use Manager
Seattle City Light
Asset Management Division

“In my role as Construction Manager, I found Ms. Fernandes to be extremely professional and competent in her interactions with the citizens, public agency officials

and our project team. I believe her insights and people skills make her an asset to any project team.”

Tim Clark, Resident Engineer, King County Department of Natural Resources

“Dr. Fernandes, On behalf of the Council of Western State Foresters’ Urban Forestry subcommittee, I want to share my thanks and congratulations...Groups that deal with the many layers of government in their communities may find your experiences very helpful.

Also, I believe that your formula for success would be an interesting article. I hope we’ll hear more about your efforts in the future!”

Beth Reed, Community Forestry Specialist, Department of State Lands, State of Montana

“Thank you for the discussion today. The Urban Resources Partnership’s direction towards outreach into low income and minority communities is an important focus that urban forestry must take both in Washington, and, I think, the United States...I am looking forward to continuing the discussion and planning together to make your ideals of minority outreach a reality.”

Shelley Farber, Washington Department of Natural Resources

“Dear Beryl, I would like to thank you for coming to Washington (D.C.) and spending time with our local partners...I appreciate your commitment to the Urban Resources Partnership Initiative. You are at the forefront of reinventing government to better serve our nation’s urban communities. Your role is a challenging one – to bring people and communities together to identify local needs, and try to meet those needs with the resources your partners will bring to the effort.”

James R. Lyons, Former U. S. Assistant Secretary, Natural Resources and Environment

“Dear Beryl: On behalf of the U.S. Agency for International Development, I want to thank you for your extraordinary efforts in planning and implementing “Lessons Without Borders: Community Development and the Environment”. Your commitment to this important initiative was crucial to the success of the Seattle program.

The Conference highlighted how local stewardship and ownership can give people a real sense of responsibility and authority in managing their own environmental future. Everyone agreed that environmental protection and economic opportunity can go hand in hand – improving everyone’s quality of life.

Beryl, I enjoyed working with you. I hope we can continue to cooperate on issues of mutual interest to the Partnership, our international friends, and USAID.”

Hiram Larew, Science Policy Specialist, USAID

"Dear Beryl,

Thank you very much for your help in making the Lessons Without Borders program in Seattle such a great success. It was a pleasure to work with you, and I hope we will have the opportunity to work together again during the course of the follow-up process."

Dan Israel, USAID

"Dear Beryl:

Tacoma is delighted to take credit for what you created. Thanks for all the good vibes you brought my City. My best...

Dennis Flannigan, Washington State Legislator
Former Pierce County Councilmember, Tacoma, Washington

"Thank you for your referral of Fernandes & Associates, Inc. for a program evaluation consulting project. Against a backdrop of concerns from our agency about reporting low or not-so-favorable looking outcomes, Ms. Fernandes first reviewed the existing system used by Lambert House. She determined that although Lambert House provided a lot of services with significant outcomes, these could be much more favorably represented in the reports to the funding source. She advised us on collecting and reporting measurable outcomes accurately and more favorably. She then designed a new process for outcome-based reporting that incorporated the entire process from intake, to data collection for each service, program and event, to tabulating the results using Excel spreadsheets. She met with me and the City of Seattle's representative, who endorsed and even praised the design, setting the stage for a favorable contract period."

Miles Conrad, Program Director, Lambert House, Seattle, Washington

"Beryl, I have enjoyed my dealings with you and will miss your smiling face. Shawn Hopkins, Ecology

"Hi Beryl, It was good to work with you on the Lewis River project.

Jeff Marti, Ecology

"Beryl: Mark (Linguist, Deceased, Former Commissioner, Wahkiakum County), had such respect for you."

"So glad you were at the luncheon. You are one of us, you know, so it's always good to have you. Karen"

Karen Bertoch, Director, Wahkiakum Community Foundation
(RE: work as Regional Director at Ecology)

"Dear Beryl: I became Petromidia's QHSE (Quality, Safety, Health and Environment) Manager, and it has offered me an excellent opportunity to apply the knowledge I acquired during your training. I was thinking that maybe you would be interested to come again to Romania, to offer us again your expertise for a project within Petromidia or within Măre Nostrum NGO."

Samargiu Nicola, Romania

"I'll miss your insight and candor, Beryl. Enjoyed working with you".

Michael Hildt, Former Seattle City Councilmember

"You've been wonderful."

Paul Kraabel, Former Seattle City Councilmember

"Beryl: Thanks for putting all of this (Katrinabikes Partnership) together. I know that I and the other mechanic volunteers had a lot of fun on Saturday, and can feel good about doing something to help others."

Doug Burgesser

"Beryl: We had a really great time helping out yesterday. It looks like I might be able to help out on Friday from 1:00pm to 4:00pm. Let me know if my services will be needed by Friday.

Thanks,

Rob (REI mechanic volunteering on Katrinabikes Partnership)

"Thanks, Beryl. You were right...those notes do make you cry. They're so touching. Thank you for sharing them with me. Do you mind if I share them?"

Enjoyed meeting you this morning too."

~Suzanne Simmons, City of Seattle Parks Department, Partner on Katrinabikes project www.katrinabikes.org

"Ms. Fernandes, Again, thank you so much for your help. (Katrinabikes)

Pastor Norman Thomas (Lake Charles, Louisiana, after Hurricanes Katrina and Rita)

"Hi Beryl:

We really appreciate all that you and the great people of Seattle have done for those that have had it pretty rough the last 7 or 8 months. I will call you the later on this week. Thanks a bunch."
(RE: Katrinabikes Partnership Project)

*MICHAEL MCCLANAHAN, Director
Dr. Martin Luther King, Jr. Community Center
4000 Gus Young Avenue*

Baton Rouge, LA 70802

Hi Beryl:

All the issues that you have worked on around the world - BoldeReach is a group of women, like you, just trying to make difference in a world where the issues that need addressing can be overwhelming.

Keep up the good work!

Cindy Lindsay

1133 Timber Lane
Boulder, CO 80304

Beryl: I'm always disappointed to hear of the departure of outstanding people. I certainly hope good things happen for you.

Thanks for all your assistance and advice. All the best -

Mark Dombroski, City Manager, City of Bainbridge Island
Former Finance Director, Seattle City Light

LINKS

Community Development, Planning and Mediation

- Bothell High School Construction Project Mediation
<http://nwnews.com/editions/1995/v16n07/front5.html>
- Bothell HS Mediated Agreement
<http://nwnews.com/editions/1997/v17n24/front4.html>
- City of Kirkland Vision prepared by Fernandes – Applauded by Mayor
http://www.cted.wa.gov/CTED/documents/ID_2463_Publications.pdf

Increasing Minority representation in the Environmental Profession

- MELDI, U. of Michigan, Minorities in the Environmental Profession Biographies
http://www.umich.edu/~meldi/PDF/ProfilesBook_0605.pdf
- National Summit on Diversity in the Environmental Field – 35 years after Earth Day
http://sitemaker.umich.edu/meldi/files/indesign_meldi_conference.pdf
<http://sitemaker.umich.edu/meldi/files/additionalbiosfinal.pdf>

Youth Mentoring

- Outdoors, Hiking, Inner-City Kids Outings
<http://www.nwsourc.com/travel/washington/puget-sound/bellingham/theres-much-more-chuckanut-mountain-first-meets-eye>
- Rainier Beach High School ?
- Austin Foundation ?
- El Centro de La Raza ?

Disaster Recovery Assistance

- Katrinabikes Media Interest
http://www.katrinabikes.org/index.php?option=com_content&task=view&id=13&Itemid=30
- Katrinabikes Press Releases
http://www.katrinabikes.org/index.php?option=com_content&task=blogcategory&id=14&Itemid=29
- Katrina Bikes – The Story
<http://blog.myspace.com/index.cfm?fuseaction=blog.view&friendID=77021654&blogID=121037154>

- Biking Bis Blog re Katrinabikes
<http://www.bikingbis.com/blog/archives/2005/11/3/1339852.html>
- C.I.C.L.E. article on Katrinabikes
http://www.cicle.org/cicle_content/pivot/entry.php?id=194
- Katrinabikes helps UW students in Seattle as well as evacuees in Louisiana
<http://thedaily.washington.edu/2005/10/28/used-bikes-will-go-to-victims/>
- Katrinabikes Collection in Seattle
<http://www.highbeam.com/doc/1G1-126201487.html>
- Katrinabikes
http://www.us-states-map.com/louisiana-map/orleans_bikes/
www.allposters.com/gallery.asp?apnum=2966336
- Katrinabikes
<http://pdfserver.prweb.com/news/20051015/index.htm>
- Katrinabikes
<http://search.nwsourc.com/search?year=2005&from=ST&rs=1&similarto=MB%3A2004396164>

Regional Director, Washington Department of Ecology

- South Puget Sound Salmon Recovery Group
<http://www.piercecountywa.org/xml/abtus/ourorg/exec/specialprojects/chinookrecovery/Nearshore/SPSSR%20Plan%20Draft%20V1.pdf>
- Ecology – Packwood Lake Hydroelectric Project
http://www.energy-northwest.com/downloads/gen/packwood/relicensing/MeetingMinutesAquatic_September_2004.pdf
- ECY – Community Health Assessment
[http://find-it.wa.gov/?topic=XAl0nSag4Xtti%2Bayy9NDFQ%3D%3D&q=cache:X44Ac_tWAFaj:www.sboh.wa.gov/Pubs/docs/SBOH_CEHA_Final.pdf+\(environment+OR+environmental\)+\(assessment+OR+assessments\)&access=p&output=xml_no_dtd&ie=UTF-8&client=subject_frontend&site=default_collection&proxystylesheet=subject_frontend&oe=UTF-8](http://find-it.wa.gov/?topic=XAl0nSag4Xtti%2Bayy9NDFQ%3D%3D&q=cache:X44Ac_tWAFaj:www.sboh.wa.gov/Pubs/docs/SBOH_CEHA_Final.pdf+(environment+OR+environmental)+(assessment+OR+assessments)&access=p&output=xml_no_dtd&ie=UTF-8&client=subject_frontend&site=default_collection&proxystylesheet=subject_frontend&oe=UTF-8)
- Youth Ecology Corps
http://www.yesweb.org/gkr/project_factsheet.html?pid=518

- Service Equity Program for Seattle Public Utilities
http://www.ejconference2008.org/images/White_Diangson.pdf

Outdoor Activities – Cycling, Hiking, Skiing, Snow-shoeing

- Support for Around-and-Over human powered journey around the world
<http://www.around-n-over.org/sponsors.htm>
- Support for Ramrod cycling event at Mt. Rainier
<http://www.redmondcyclingclub.org/Newsletters/2002/aug02.pdf>
- Outdoors with the Mountaineers
http://www.everettmountaineers.org/membership/newsletters/news_88.pdf
- Seattle Times - Safety Advocate for Cyclists
http://seattletimes.nwsourc.com/html/localnews/2003992818_bikememorial04m.html
- Redmond Cycling Club Newsletter
<http://www.redmondcyclingclub.org/Newsletters/2000/nov00.pdf>
- Seattle Times-PI Snowshoeing
<http://seattlepi.nwsourc.com/archives/1996/9602150007.asp>
- Seattle Times-PI – Winter Hikes
<http://seattlepi.nwsourc.com/archives/1996/9602080007.asp>
- 1,001 Hikes in North America
<http://www.amazon.com/1-001-Hikes-North-America/dp/B00006IKET>

Political Involvement

- Dispatches from the Political Caucuses in Seattle 2008
http://seattletimes.nwsourc.com/html/localnews/2004173955_webcitizenreports09.html
- Politics: Congressional District Delegate for Obama '08
<http://www.46dems.com/2008/dcaucusresults.php>
<http://www.obamadelegates.org/page/WA-07?t=anon>

Beryl Fernandes

From: "Larry Paulson" <LPaulson@Portvanusa.com>
To: <fernandesb@comcast.net>
Sent: Saturday, October 30, 2004 8:30 PM
Subject: New Job

Hi Beryl,

I received your invitation but was not able to attend. So I made a note of the e-mail, waited until you were officially no longer at DOE, and decided it was time to send a note. First of all, thank you for all your good work at DOE. I know that you were quite frustrated with the result of your attempt to work out an arrangement between the Port of Vancouver and Clark Public Utilities, but I can tell you you made a valiant effort! And the effort was far and away better than I have ever seen in a state agency. Unfortunately, we are still at it. But we are also still talking. My relationship with Doug Quinn (the water person at CPU) and Wayne Nelson (their CEO) remains good. And we are still talking. I also understand that a new permit is or is about to be issued. We will appeal if that happens. Yet a settlement may yet occur.

In any event, I also wanted to wish you the very best in your new (or is it old) endeavors. Hopefully this will be a good thing...and it sounds like you are, in a sense, going home.

Take care.

Larry

Beryl Fernandes

From: "Fitzsimmons, Tom (GOV)" <Tom.Fitzsimmons@GOV.WA.GOV>
 To: "Beryl Fernandes" <fernandesb@comcast.net>
 Sent: Saturday, November 19, 2005 10:05 AM
 Subject: RE: Harold Taniguchi

I saw him last night at the ACRS auction. I told him I have very high regard for you and thought if the job is a good fit he should hire you...
 He said he may call me for more info...

Very High Reg

Is there anymore I can do for the King county job? I will call Pam if you want me to....

From: Beryl Fernandes [mailto:fernandesb@comcast.net]
 Sent: Thu 11/17/2005 3:46 PM
 To: Fitzsimmons, Tom (GOV)
 Subject: Harold Taniguchi

Hi Tom:

I had an informational interview with Harold Taniguchi today. I'm writing to let you know he might call you. I told him I'd be willing to take even a temporary position.

Last week I had my interview as one of two finalists for the KC Natural Resources Regional Services Section Manager position. They said they'd have a decision early this week, but no word yet. They were sniffing around about what happened at Ecology and it seemed like they spoke with other people they knew there. The other finalist is an internal candidate, so I'm not hopeful at this point. It's been a recurring end to all my applications. It's been over a year and I'm tired, broke and broken-spirited.

KC County
 sniffing around
 re Ecology
 employment

Beryl Fernandes
 (206) 523-7694
fernandesb@comcast.net <<mailto:fernandesb@comcast.net>>

Beryl Fernandes

From: "Fitzsimmons, Tom (GOV)" <Tom.Fitzsimmons@GOV.WA.GOV>
To: "Beryl Fernandes" <fernandesb@comcast.net>
Sent: Thursday, January 12, 2006 6:29 PM
Subject: RE: Heads up - Kurt Triplett

Please ask people you meet with to call me.... I am willing to help! Happy new Year to you to.
Hang in there and something will turn for you!

-----Original Message-----

From: Beryl Fernandes [mailto:fernandesb@comcast.net]
Sent: Wednesday, January 11, 2006 12:50 PM
To: Fitzsimmons, Tom (GOV)
Subject: Heads up - Kurt Triplett

Hi Tom:

Had an informational meeting with Kurt Triplett today. Nothing in his shop but he's
* enthusiastic about referring me to several others. I told him you'd serve as a reference
* and he said he just might mention my name when he calls you about other matters.
Thought I'd give you a heads-up.

Also interviewed as a finalist for WSDOT's Manager of its Urban Planning Office in
Seattle. Put in an application for a Special Projects Manager in Harold Taniguchi's shop.
And on and on, ad nauseam :) I'll be sure to let you know if anyone is about to call you.

Thanks for your support. Better late than never :)

Best wishes for your 2006!

Beryl
(206) 523-7694

1/13/2006

*

Beryl,
I am really sorry that you are leaving the Department of Ecology. We need people like you in responsible positions at the state level, especially in DOE. You are really able to connect with us "locals".

*

Good luck,
Rebecca Chaffee

Director
Port of Willapa Bay

----- Original Message -----

~~From: Beryl Fernandes~~

To: Fernandes, Beryl

Sent: Friday, July 25, 2003 7:30 PM

Subject: Re: Raymond Redevelopment Workshop

No problem at all. I'll check Don's and my calendar and get back to you with 3 possible dates for you to choose from.

Beryl

>> From: Rebecca Chaffee[SMTP:RAYMONDPWRC@WILLAPABAY.ORG]

>> Sent: Thursday, July 24, 2003 9:30:47 AM

>> To: Fernandes, Beryl

>> Subject: RE: Raymond Redevelopment Workshop

> Beryl,

> Several people that I would really like to participate in the workshop with you and Don Meyer will be on vacation the last week of August. Would you be willing to reschedule in mid September?

> Thanks, Rebecca

>

> -----Original Message-----

> From: Fernandes, Beryl [<mailto:BFER461@ECY.WA.GOV>]

> Sent: Friday, July 18, 2003 3:35 PM

> To: 'raymondpwrc@willapabay.org'

> Subject: RE: Raymond Redevelopment Workshop

>

> Rebecca:

> That's terrific. Take your time checking with people. We can always find another date too.

>

> Beryl Fernandes, Ph.D.

> Regional Director, Southwest Region

> Washington Department of Ecology

> P O Box 47775

> Olympia, WA 98504-7775

> 360/407-6307

> bfer461@ecy.wa.gov

>

> -----Original Message-----

> From: Rebecca Chaffee [<mailto:raymondpwrc@willapabay.org>]

> Sent: Friday, July 18, 2003 2:32 PM

> To: Fernandes, Beryl

> Subject: Raymond Redevelopment Workshop

>

> Beryl,

>

> Sorry I've been slow to get back to you on your proposed date. I am trying to check schedules of key people. I will try to confirm the proposed date with you early next week. Everyone I've talked to is very interested in hearing about Tacoma's redevelopment and their redevelopment authority. We really appreciate your effort.

Rebecca

beryl fernandes

To: beryl fernandes
Subject: Keith Phillips- compliments: Request for Reference

From: Phillips, Keith (GOV) [mailto:Keith.Phillips@OFM.WA.GOV]
Sent: Monday, June 12, 2006 7:36 AM
To: Beryl Fernandes
Subject: RE: Request for Reference

Sorry to hear about the long road. I'll do what I can to help, and will prepare accordingly for his call. And I'll let you know when/how the call goes.

-----Original Message-----

From: Beryl Fernandes [mailto:fernandesb@comcast.net]
Sent: Monday, June 12, 2006 6:11 AM
To: Phillips, Keith (GOV)
Subject: RE: Request for Reference

Hi Keith:

Thank you so much!

The job title is Planning and Program Performance Advisor with Seattle Public Utilities, as their revised job description indicates. I underlined the portions of the job description I felt represent my experience and attached my cover letter and resume for the position.

After two interviews I'm one of three finalists. The other two are internal candidates. Losing at the end to internal candidates is a recurring pattern that's taken a huge toll after 19 months of trying to find work. I'd be lying if I said things were OK.

Keith Hinman, hiring manager, is checking references and I'll ask him to contact you the middle to end of this week if the works for you. He said that my references were great but he had one nagging issue. He received "hints of some issues" may have had at ECY. He speculated, based on something Tom told him, the issues may have been related to the culture change the agency was going through. It is this speculation that he probed with me on Thursday and which prompted him to ask for another reference. Not knowing what issue he was referring to, I said that as with any outsider entering an organization in which staff had worked with each other for a long time, it can be challenging to have a newcomer. I said I probably faced some of that when he moved from the County to the City four years ago, and it would be the same if one was to move within SPU's divisions. He concurred and appeared to relax with these examples.

I'm available by phone 8am-8pm if you'd like to talk.

Thanks again.

Beryl

-----Original Message-----

From: Phillips, Keith (GOV) [mailto:Keith.Phillips@OFM.WA.GOV]
Sent: Friday, June 09, 2006 3:51 PM
To: Beryl Fernandes
Subject: RE: Request for Reference

Hi, Beryl -- Certainly! I would be glad to give you a strong reference, since you would bring creativity and capacity to anything you take on.

It would help me prepare if you are able to share information about the job for which you are applying.

Regardless, I'm ready to receive, and/or make, a call. Just let me know.

I hope things are OK with you.

Keith

-----Original Message-----

From: Beryl Fernandes [mailto:fernandesb@comcast.net]

Sent: Friday, June 09, 2006 1:39 PM

To: Phillips, Keith (GOV)

Subject: Request for Reference

Hi Keith:

I apologize if you already received this message, which was mistakenly sent to an OFM email address. Mess below.

Thanks,

Beryl

-----Original Message-----

From: Beryl Fernandes [mailto:fernandesb@comcast.net]

Sent: Friday, June 09, 2006 1:20 PM

To: Keith Phillips

Cc: Tom Fitzsimmons (GOV)

Subject: Request for Reference

Hi Keith:

* In this seemingly endless phase of job hunting Tom has been serving as a reference for my work at Ecology. Yesterday I had a follow-up call from a hiring manager saying that all my references were great, but he had "hit of some issues at Ecology" – an unfortunate recurring theme. He asked if in addition to Tom, he could have one more reference who had been at Ecology the whole time I was there.

I'm writing to ask if you'd provide a strong reference. If you have any questions for me, let's talk on the phone or person.

I hope all is well with you.

Beryl

beryl fernandes

Subject: Jane Hedges: Nuclear Waste Program Framework Document
Attachments: Framework1.doc

From: Hedges, Jane (ECY)
Sent: Thursday, September 11, 2003 3:20:36 PM
To: Fernandes, Beryl
Subject: Nuclear Waste Program Framework Document
Auto forwarded by a Rule

Beryl: Thanks again for meeting me for lunch on Monday. I thoroughly enjoyed it. Here is our framework document for communication. Hope it is helpful. See you soon. Jane

<<Framework1.doc>>

Jane A. Hedges, Section Manager
Nuclear Waste Program
Department of Ecology

beryl fernandes

To: beryl fernandes
Subject: Compliments: Vicki Flores retirement.doc

-----Original Message-----

From: Flores, Vicki
Sent: Friday, February 27, 2004 8:05 AM
To: Fernandes, Beryl
Subject: RE: Vicki Flores retirement.doc

* Thank you, Beryl. You're a very pleasant and intelligent manager -- I have liked and admired you since the first time we talked.

-----Original Message-----

From: Fernandes, Beryl
Sent: Thursday, February 26, 2004 7:05 PM
To: Flores, Vicki
Cc: Mendez-Correa, Lorna
Subject: FW: Vicki Flores retirement.doc

Vicki:

I'm sorry i can't be there tomorrow since i'll be in Clallam County. The few interactions we had were very pleasant and memorable and i wish i'd made the time for more.

I wish you the very best in your retirement years.

Beryl Fernandes, Ph.D.
Regional Director, Southwest Region
Washington Department of Ecology
P O Box 47775
Olympia, WA 98504-7775
360/407-6307
bfer461@ecy.wa.gov

beryl fernandes

To: beryl fernandes
Subject: Wow! Defended by the Centralia Chronicle!?

-----Original Message-----

From: Hoffman, Linda
Sent: Monday, April 19, 2004 6:26 PM
To: Howard, Sandy (ECY); Hutchison, Sheryl; Susewind, Kelly; Fernandes, Beryl
Subject: RE: Wow! Defended by the Centralia Chronicle!?

Yes, this is good coverage and message, and I understand our folks did a great job.

-----Original Message-----

From: Howard, Sandy (ECY)
Sent: Monday, April 19, 2004 3:45 PM
To: Hutchison, Sheryl; Susewind, Kelly; Fernandes, Beryl; Hoffman, Linda
Subject: RE: Wow! Defended by the Centralia Chronicle!?

Yes, our messages are sinking in -- finally!

-----Original Message-----

From: Hutchison, Sheryl
Sent: Monday, April 19, 2004 3:39 PM
To: Howard, Sandy (ECY); Susewind, Kelly; Fernandes, Beryl; Hoffman, Linda
Subject: Wow! Defended by the Centralia Chronicle!?

See red highlighting below - sounds like our folks did a pretty nice job at the Tea Party meeting last week!

4/18/04 - Centralia Chronicle

Editorial: Chehalis council must do what is best for residents

An unusually large turnout of ordinary Chehalis residents earlier this week for a public meeting indicates again the growing and deep level of concern about prospective huge increases in the city's utility rates.

The meeting, attended by more than 100 Chehalins, was called by the Chehalis Tea Party, a group of residents shocked at what appear to be out of control utility rates in their city related to water, wastewater and stormwater projects under way or proposed. Letters and stories in The Chronicle have indicated residents and businesses may have to leave the city if rates surge to anywhere near the estimated 50 to 150 percent increase especially because of a proposed new wastewater treatment plant.

Similar sentiments were expressed by those attending Tuesday night's meeting. These are not troublemakers or people with personal agendas or proverbial axes to grind. These are ratepayers who attended out of a combination of fear and anger.

Residents have a right to be concerned and we can understand their anger and frustration. This is a grassroots groundswell that is growing.

Accordingly, we hope city officials present took note of the audience makeup and felt the undercurrent in the room.

An examination of how Chehalis has gotten into this quandary is needed.

Linda H - great
BF played a key
in planning this
& keeping
from bashing
Ecology
separate email to plc

At the meeting, ex-mayor and current councilor Bob Spahr frequently voluntarily answered questions that weren't necessarily directed to him. We appreciate that because he has much for which to answer.

In the 1990s, he led a council that made crucial errors in judgment. One was to not seriously pursue discussions with the city of Centralia over the possibility of a regional wastewater plant that would serve both cities.

Some of the old-guard councilors have excuses about why they didn't negotiate, but none of them ring true. Centralia has always been willing to talk about the possibility of shared services.

There is talk about the egos of former and current councilors. There is concern some city department managers want their own plant so their resumes are more impressive. City employees are concerned if Chehalis hooks up to Centralia's plant, Chehalis may not have as many jobs available.

Others wonder if the guidance being given to the city of Chehalis should come from the engineering firm that stands to build a separate plant for Chehalis if that's the city's final decision. This is the same firm that over the years seems to win all its bids with the city.

Also at Tuesday's meeting, Spahr again took aim at the environmental requirements that are necessitating the costly new wastewater treatment. But the DOE is simply implementing environmental laws passed by the public officials we elect. While Chehalis has delayed, other cities, including Centralia, have chosen to work with DOE and moved to upgrade their wastewater plants, to their comparative benefit.

One of the questions raised at the meeting was if the Chehalis council would vote to work with Centralia if linking to that city's plant proved to be cheaper. The answer was a collective yes, except that ex-mayor Spahr wondered about "guarantees" or add-ons to such a contract.

That is a reasonable concern, but we wonder if the same antagonist attitude is in play again. Chehalis cannot afford anything but open minds and legitimate studies and comparisons.

It was also asked if Chehalis council members or staff personnel have visited the new Centralia plant. But despite invitations from Centralia, no Chehalis department managers and only Mayor Fred Rider and councilor Chad Taylor among the seven councilors have bothered to do that.

Yet Chehalis representatives visited Gig Harbor to check out traffic circles there, leading us to wonder there is much hope for a reasonable decision-making process to work with Centralia.

We'll leave it to Chehalis to decide if poor decisions because of inadequate leadership have led to the Tea Party uprising over utility rates.

Meanwhile, we urge the Chehalis council to do what is best for Chehalis ratepayers so they can continue to live in the city.

*Sheryl Hutchison, Director
Office of Communication & Education
Department of Ecology
360-407-7004*

Beryl Fernandes

From: kbertroch@aol.com
Sent: Wednesday, July 18, 2007 7:56 AM
To: fernandesb@comcast.net
Subject: Re: Hello There!!!

So good to hear from you. Mark Linquist, our dear County Commissioner, died in December. The lung cancer took him, but it was peacefully. He just slipped away in the morphine haze. Such a huge loss. We are a dramatic county!!! Lots going on...

How are YOU? Where are YOU? What are you doing now?

Mark had such respect and affection for you and his wife, Bonnie, as well. Hope you'll come visit???? We got a grant from State to purchase 5 acres at Covered Bridge for a park. WE'll dedicate it Sat August 4th at 11 am. Would love to have you there with us!

Karen

Karen Bertroch, Director
Wahkiakum Community Foundation
360.465-2414
www.wahkiakumfoundation.org

-----Original Message-----

From: Beryl Fernandes <fernandesb@comcast.net>
To: kbertroch@aol.com
Sent: Wed, 18 Jul 2007 7:04 am
Subject: Hello There!!!

Hi Karen:

*I hope this message finds you in great health and spirit!
The last time we communicated, County Councilman was quite ill. How is he and his wife?*

Beryl

AOL now offers free email to everyone. Find out more about what's free from AOL at AOL.com.

3/19



Tom Fitzsimmons
Chief of Staff

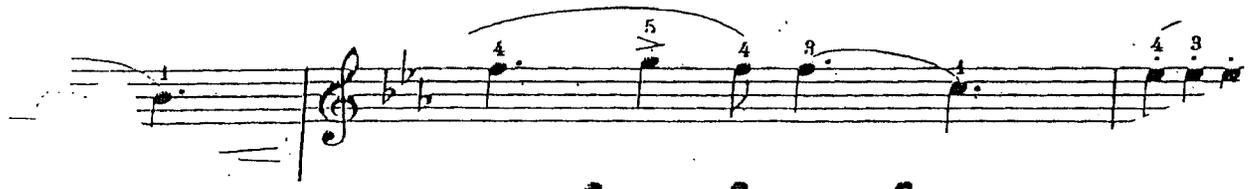
Office of the Governor
Insurance Building
Post Office Box 40002
Olympia, WA 98504-0002

360-902-4112
FAX 360-753-4110
Tom.Fitzsimmons@gov.wa.gov

Corisa -
Would you pls.
deliver to Beryl
when you see her
this Friday... ?
Chris Kym



* Red. * Red. Red. *



Beryl -

Here is a couple of my business
cards... I hope you are doing well and
settled in your new job. It was a long
time coming, so I do hope it has
restored your confidence & creativity!
Love to you... Tom

Beryl Fernandes

From: Fitzsimmons, Tom (GOV) [Tom.Fitzsimmons@GOV.WA.GOV]
Sent: Saturday, November 19, 2005 10:06 AM
To: Beryl Fernandes
Subject: RE: Harold Taniguchi

I saw him last night at the ACRS auction. I told him I have very high regard for you and thought if the job is a good fit he should hire you... He said he may call me for more info...

Is there anymore I can do for the King county job? I will call Pam if you want me to..

From: Beryl Fernandes [mailto:fernandesb@comcast.net]
Sent: Thu 11/17/2005 3:46 PM
To: Fitzsimmons, Tom (GOV)
Subject: Harold Taniguchi

Hi Tom:

I had an an informational interview with Harold Taniguchi today. I'm writing to let you know he might call you. I told him I'd be willing to take even a temporary position.

Last week I had my interview as one of two finalists for the KC Natural Resources Region Services Section Manager position. They said they'd have a decision early this week, but no word yet. They were sniffing around about what happened at Ecology and it seemed like they spoke with other people they knew there. The other finalist is an internal candidate so I'm not hopeful at this point. It's been a recurring end to all my applications. It's been over a year and I'm tired, broke and broken-spirited.

Beryl Fernandes
(206) 523-7694
fernandesb@comcast.net <mailto:fernandesb@comcast.net>

beryl fernandes

To: beryl fernandes
Subject: Tom Fitz -"this is a great thing to do" re Bennie Armstrong - UN potluck

-----Original Message-----

From: Fitzsimmons, Tom (GOV)
Sent: Monday, December 15, 2003 5:29 PM
To: Fernandes, Beryl
Subject: RE: GHC 2003-1000 substantial shoreline development request w/i OCNMS

This is a great thing to do..... what a treasure to experience...

-----Original Message-----

From: Fernandes, Beryl
Sent: Thursday, December 11, 2003 12:46 PM
To: Fitzsimmons, Tom (GOV)
Subject: RE: GHC 2003-1000 substantial shoreline development request w/i OCNMS

All is well - really. And I trust the same for you.

I'm glad you wrote because now I have an excuse to tell you about something very exciting. For the annual UN potluck I brought the Suquamish Tribal Chairman, Bennie Armstrong, as keynote speaker. He was a hit with s because he's personable, articulate, sensitive and bright.

Since that time he and I have discussed bringing Ecology staff to the reservation and now it's becoming reality. brought the idea to WRMT and they went for it even though none of them showed up for the luncheon :) Ah yes, forgiveness ... I do remember.

We're planning a trip-out there late Jan or early Feb. We'll stop at Chief Sealth's grave first, then the tribal museum and the conference center for informal roundtable discussions on issues of mutual interest. They serve us lunch, for which the elders will join us.

We're opening it up to as many staff as want to go including NWRO.

Cool, huh?

Beryl

-----Original Message-----

From: Fitzsimmons, Tom (GOV)
Sent: Thursday, December 11, 2003 12:15 PM
To: Fernandes, Beryl
Subject: FW: GHC 2003-1000 substantial shoreline development request w/i OCNMS

FYI ... I hope all is well with you...

Beryl Fernandes

From: Fitzsimmons, Tom (GOV) [Tom.Fitzsimmons@GOV.WA.GOV]
Sent: Thursday, January 12, 2006 6:30 PM
To: 'Beryl Fernandes'
Subject: RE: Heads up - Kurt Triplett

Please ask people you meet with to call me.... I am willing to help! Happy new Year to you to. Hang in there and something will turn for you!

-----Original Message-----

From: Beryl Fernandes [mailto:fernandesb@comcast.net]
Sent: Wednesday, January 11, 2006 12:50 PM
To: Fitzsimmons, Tom (GOV)
Subject: Heads up - Kurt Triplett

Hi Tom:

Had an informational meeting with Kurt Triplett today. Nothing in his shop but he's enthusiastic about referring me to several others. I told him you'd serve as a reference and he said he just might mention my name when he calls you about other matters. Thought I'd give you a heads-up.

Also interviewed as a finalist for WSDOT's Manager of its Urban Planning Office in Seattle. Put in an application for a Special Projects Manager in Harold Taniguchi's shop. And on and on, ad nauseam :) I'll be sure to let you know if anyone is about to call you.

Thanks for your support. Better late than never :)

Best wishes for your 2006!

Beryl
(206) 523-7694

Hi Beryl,
How goes it? all is well
in Tuc. Thanks to your vision
& assistance. UKP is actually
a "done deal" & went well.
If possible, please try to attend
this "potluck" and don't you dare
bring anything. We can also give
you an update on projects funded
(14 of 25) & just relax. pls. call
to confirm. We'd be blattered.

Yours,
Lawrence

front page

content project

Tentative agreement reached on Bothell High field plan

NEWS STAFF by Jeff Switzer

On Nov. 29, representatives from youth sports, the neighborhood, and the school district forged an agreement they all could live with regarding the proposed field upgrades at Bothell High School.

At issue were the proposed high-powered lights and P.A. system the neighbors felt would be intrusive. They formed Neighbors Against Intrusive Lights and Sound Systems (NAILS) to oppose the project.

A 14-member Stakeholders Committee, composed of students, area residents, school officials, and youth sports coaches, was created to find some middle ground between Northshore School district and the neighbors near Bothell High School.

The committee has been working with facilitator Beryl Fernandes to run the meetings and help forge consensus between the groups during the past two months.

Fernandes was impressed at how the community and the school district pulled together.

"An outstanding group of citizens, both the neighbors and the school district," Fernandes said. "The most satisfying thing I saw was the bond and long-term relationships that developed among the members of the community and the school district."

Fernandes also expressed appreciation for the creative solutions the committee came up with, such as exploring the possibility of creating a softball field/baseball field that would switch to accommodate the intense-use times of the year.

The tentative agreement reached says lights will be used on the football/soccer/track and baseball fields only, no permanent P.A. system will be installed, and no adult team sports will be scheduled for the fields.

The lights to be used will be designed with minimum light intensity, set at minimum height and will be turned on only when necessary.

"There was a gigantic feeling of elation when we finally decided," said Steve Young, director of Support Services of the Northshore School District. "The times of the light use was the real stumbling block. When it was over with, we said, 'yeah, we can all live with this.'"

Young commended NAILS co-chair Dean Maggs for his hard work and said he emerged as a true leader. "This process would have been difficult if he hadn't stepped forward," Young said, "he deserves a lot of credit."

All but five members of the committee were in attendance and signed the agreement. Final word-smithing is planned for the beginning of this week followed by the signing of the plan before the public meeting.

Other highlights of the tentative agreement:

- Weekend games will not start before 9 a.m., though preparations may begin earlier.
- Use of the lights will be allowed six days per week and not on Sundays.
- The lights on the baseball field will be on until 9:30 p.m., with security lights programmed until 10:30 p.m.
- The lights on the soccer/football/track field will be turned off at 9:30 p.m. for school use and 8:30 p.m. for community use Monday through Thursday, and until 9:30 p.m. on Fridays and Saturdays.

- Berms and tree buffers will be used where feasible to mitigate the impact of the lights on surrounding homes.
- No permanent public address system will be installed, though the track field will use a portable P.A. at minimum volume. P.A. use is allowed only for school needs.
- A reader board will be used for the baseball field.

To inform the area residents on the entire plan for the fields, a community meeting is set for Dec. 7, at 7:30 p.m. in the Ricketts Auditorium, 18315 Bothell Way NE.

The committee expects to present its plan to the school board at its meeting on Dec. 12.

front page	local news	opinion	sports	business
school	features	background	entertainment	events

MARCH 31, 1997

woodinville.comyour home town on the world wide web at <http://www.woodinville.com>

front page

Ground broken for new Bothell High ballfields



Left to right: Steve Young, support services, Northshore School District; Mark Ericks, Bothell chief of police; Rick Kirkwood, Bothell City Manager; Al Haynes, Bothell High principal; and Eric Barnum, director of athletics, activities, and student services.

Photo by Andrew Walgamott/Northwest News.



by Andrew Walgamott

Construction on new ballfields, track, and parking facilities at Bothell High School began Mar. 26 when members of the school district, city, and community gathered for a gusty groundbreaking ceremony.

As bulldozers worked to flatten bushes on a lot purchased for parking, Steve Young, executive director of support services for the Northshore School District spoke about how the Stakeholders Committee, comprised of school district and city officials, members of the community, and an outside consultant, worked out project details such as lighting, traffic, and public address systems, that would serve the school district and still be compatible with the community needs.

"Today is the culmination of a lot of work," said Young.

"I'm glad to turn a shovel and get this thing going," said Bothell High principal Al Haynes. He was also happy to finally have comparable facilities to other schools. "We certainly need it, given the size of our school, and the number of youth teams in the area that will benefit," he added.

City officials were positive, as well. "I'm really impressed that the school district and community got together," said city manager, Rick Kirkwood. "Big projects take a lot of work."

As gold-colored shovels stood ready for digging, chief of police Mark Ericks said, "This is one small scoop for the district, one giant scoop for the community."

The \$3.8 million project covers half of the Bothell High campus, according to Ernie Kirk, site supervisor for Fuji Enterprises, general contractor on the project.

Included in the project will be new softball and baseball fields. With new sod, the fields will be ready for use by next spring, according to Dave Anderson, engineer with D.A. Hogan & Associates of Seattle, the design team contracted for the project. A new track and astro-turf football field will be completed by September. Grandstands and storage buildings for equipment are planned as well, Anderson said.

Haynes said that the existing track wasn't up to par, and that the track team had been bussed to Inglemoor for practice. A landing area for javelin and discus is also incorporated into the project, according to Anderson.

The school district purchased three parcels of property, two for a 123-car parking lot and restroom facilities, and the third held in reserve for a future ball field, according to Young. Lighting for the new facilities, a concern in the surrounding community, has been "minimized for off-site spillage," according to Anderson. Night-time lighting will be provided on the baseball diamond, track, and football field, but not on the softball fields "because of close proximity to housing," said Anderson.

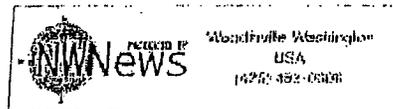
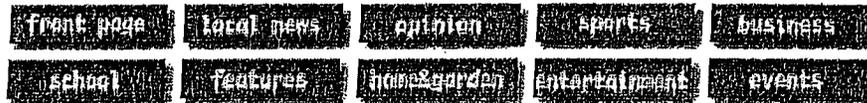
Drainage improvements and landscaping will also be done. "You're going to look at this and say 'wow,'" Young added.

Young said the project was inspired by a student's letter to a local paper several years ago, addressing needs for improved ballfields. Later, the project included the track and football field.

Young said the school district had approached neighbors of the project who expressed their concerns at an April 1995 meeting. From that grew the Stakeholders Committee, dedicated to solving issues such as public address systems, parking and traffic problems, lighting, and adult use of the fields, Young said.

By eliminating proposed sound systems, lighting on the southwestern softball field and adult league-use, and spending money on parking, Young said all members of the stakeholders signed an agreement to go ahead with the project.

Beryl Fernandes, a consultant and mediator for the Stakeholders Committee, said, "Credit goes to all the people who came to the table and were willing to put aside their agendas," and work for the benefit of the community.





WASHINGTON STATE DEPARTMENT OF
Natural Resources



About DNR

Programs & Topics

News & Information

Publications & Data

Business with DNR

Recreation

Fire & Natural Hazards

Education & Assistance

Employment with DNR

Site Map / Index

NEWS RELEASE

No. 03-067

June 13, 2003

Contact: Todd Myers, 360-902-1023

BF:

Public Sp

States launches removal of derelict vessels in Middle Waterway Tacoma

Cleanup of superfund sites, creation of essential habitat begins

OLYMPIA – Today, Tacoma's Middle Waterway is one step closer to becoming a healthy estuary ecosystem. Washington's departments of Natural Resources (DNR), Fish and Wildlife, and Ecology joined forces with the city, Commencement Bay Natural Resource Damage trustees, and private friends of Commencement Bay to launch the removal of derelict vessels and continue cleanup of superfund sites.

This is part of a coordinated plan to rejuvenate the health of Commencement Bay, one of the largest ports on the west coast. Middle Waterway has been selected for focused efforts to recreate the historical estuary mudflats destroyed by a century of vigorous industry and commercial development. Removal of derelict vessels is just one step in many commitments being carried out in the Bay.

Search DNR

search

"As Mayor of Tacoma and Pierce County Executive, I saw these efforts as they were beginning," said Doug Sutherland, Commissioner of Public Lands. "And it is gratifying to see those efforts really begin to pay off. With the cooperation of people in the community, and state and local agencies, Commencement Bay is taking another step to becoming cleaner and healthier."

He continued, "We now have a mechanism to pay for cleanup of derelict vessels, and today we see the first results of that in Commencement Bay. It works hand-in-hand with other cleanup efforts. And Ecology's offer of matching funds jump-started the removal project, and we are truly grateful."

"The City applauds the hard work of the DNR in the passage of the derelict vessel legislation," said John Stetson, Tacoma's Assistant Director of Public Works, Environmental Services. "The legislation gives us the go-ahead to remove other derelict vessels that are not only an eyesore, but a threat to the environment."

"When we remove derelict vessels and contaminated sediments, we're resuscitating Commencement Bay and bringing it back to life," said Beryl Fernandes, a Department of Ecology regional director. "We have a great partnership that is helping revitalize Tacoma to be a vibrant, urban destination."

"This project fits nicely with what we're doing in the area," said Dave Molenaar, area habitat biologist for the Washington Department of Fish and Wildlife (WDFW). "Anything that moves trash out of the waterway and helps to restore the natural estuary is definitely a step in the right direction."

LAW OFFICES

MALTMAN, REED, NORTH, AHRENS & MALNATI, P.S.

A PROFESSIONAL SERVICE CORPORATION

1415 NORTON BUILDING

801 SECOND AVENUE

SEATTLE, WASHINGTON 98104-1522

FACSIMILE (206) 624-6672

TELEPHONE (206) 624-6271

FREDRIC D. REED
DOUGLASS A. NORTH
DOUGLAS W. AHRENS
MICHAEL C. MALNATI
KURTIS D. SNYDER

WILLIAM L. MALTMAN
PAUL SIKORA
OF COUNSEL

LAWRENCE R. HENNING!
1889-1993

December 10, 1993

Gary Locke
King County Executive Elect
Transition Office
2911 Second Avenue
Second Floor
Seattle, WA 98121

Attn: Joan Yoshitomi
Transition Director

Re: Beryl Fernandes

Dear Ms. Yoshitomi:

This is a letter of unqualified recommendation of Beryl Fernandes for a position on your staff.

I have known Ms. Fernandes for over four years as an urban planner, as a participant in the American Planning Association, as a mentor of students at the University of Washington's Department of Urban Design and Planning, and as a friend.

Her knowledge and interests are broad and her analytical abilities are excellent. Her demanding intellect has given her the admirable ability to quickly discern bullshit and a low tolerance for it. She is articulate and sensitive.

The quality of her work is superb. She is a pleasure to work with and her integrity is unassailable.

Of particular value to the chief executive of a county with over 250 separate governments is her experience with the various many jurisdictions and her sensitivity to their ethnic and geographic constituencies.

Very truly yours,

MALTMAN, REED, NORTH,
AHRENS & MALNATI, P.S.

Paul Sikora

December 3, 1993

Gary Locke, King County Executive-Elect
2911 Second Avenue
Seattle, WA 98101

Dear Gary:

RE: RECOMMENDATION OF BERYL FERNANDES

This letter is to recommend to you a former policy staff person of the Snohomish County Council, Beryl Fernandes in staffing decisions that may lie ahead of you.

Beryl Fernandes was the Assistant Council Administrator and one of three policy staff the new County Council hired. Staff assignments were made primarily by department and she handled the departments of Planning, Public Works and Human Services.

She demonstrated a tremendous breadth and depth of understanding of County and regional issues and was an analyst the Councilmembers could readily rely on. She was a thorough researcher and able to carefully critique highly technical and multi-disciplinary subject areas while showing a sensitive understanding of the political process in her recommendations.

Beryl has excellent communication skills and provided each of the Councilmembers and the whole body clear and succinct briefings. She got along very well with all the Councilmembers, Democrat and Republican alike. Although a newcomer to Snohomish County, she was very adaptable and quickly got to know and gained the respect of community representatives and the County Executive's staff.

Beryl served our Council until she left to become a policy analyst for the Seattle City Council. I recommend her strongly for any appropriate position in your administration. She will undoubtedly bring with her enthusiasm, cheerfulness, warmth, a sense of humor and ofcourse a willingness to work hard, hallmarks of her tenure with us on the Snohomish County Council.

Should you have any questions, please call me at 568-6494.

Sincerely,


Clifford Bailey, Former Chairman
Snohomish County Council
13019 Springhetti Road
Snohomish, WA 98290

BERYL FERNANDES
AS CONSULTANT
with Gov. Lockers
Womens Council on 2-week
International Delegation trip
led by Sen. Pally Murray



EXHIBIT M

From: "Fernandes, Beryl" <BFER461@ECY.WA.GOV>
To: "Berns, Pam" <PBER461@ECY.WA.GOV>; "Mendez-Correa, Lorna" <lmen461@ECY.WA.GOV>
Sent: Thursday, March 11, 2004 8:55 AM
Subject: Thanks for help on Fish First
Pam and Lorna:

Having completed that stressful meeting with Fish First and Legislators yesterday, I can now breathe again. I want to thank you for your help and support during the last few weeks of high stress on Fish First's issues. You both acted professionally, appropriately, and supportively. I appreciate everything you did, and most of all, how willingly you did it.

Regardless of the outcome of that meeting, I'd have felt the same about you. But having that meeting turn out as well as it did, I feel even more enthusiastic and know that being surrounded by a supportive team gives me the strength I need to go out and face a sometimes not-so-friendly-to-Ecology world.

What a team!

Beryl

beryl fernandes

To: beryl fernandes
Subject: BF to SWRO staff re Admin Day-Who says there's no free lunch

-----Original Message-----

From: Fernandes, Beryl
Sent: Wednesday, April 23, 2003 7:55 AM
To: White, Abbe
Subject: RE: Who says there's no free lunch

Great. Thanks.

Beryl Fernandes, Ph.D.
Regional Director, Southwest Region
Washington Department of Ecology
P O Box 47775
Olympia, WA 98504-7775
360/407-6307
bfer461@ecy.wa.gov

-----Original Message-----

From: White, Abbe
Sent: Tuesday, April 22, 2003 10:26 AM
To: Fernandes, Beryl
Subject: RE: Who says there's no free lunch

I've made reservations for 10 people ~ 11:30 Friday 4/25 - in one of their side rooms.

-----Original Message-----

From: Fernandes, Beryl
Sent: Monday, April 21, 2003 12:35 PM
To: Berns, Pam; Eastabrook, Lori; Berube, Jeri; White, Abbe; Smitherman, Opal; Mendez-Correa, Lorna; Greenup, Sherri; Garrett, Maureen; Butler, Shawna M; Howes, Tammy

Cc: Fernandes, Beryl
Subject: Who says there's no free lunch

Hello All:

In recognition of Admin Support Appreciation Week I would like to take all of you out to lunch on Friday April 25. I have in mind a buffet lunch at an Indian restaurant, Mehfil, near Fred Meyer in the Lacey shopping center. Pam and I have talked about this and she will arrange for back-up while we're gone. I suggest leaving at 11:30 with a return time of 1.30 ?

Beryl

BERYL initiated first all-SWRD potluck

You are invited to attend a
POTLUCK

WHO: Southwest Regional Staff

THEME: "Savor Our Salmon"

WHEN: Thursday, June 5th from 11:30-1:30

WHERE: Patio area outside the cafeteria

(weather permitting) 

WHAT: BBQ Salmon will be provided
To complement the salmon, please bring:
vegetable/fruit salad, appetizers, desserts,
drinks, bread/rice/potatoes, fresh/cooked
vegetables, main dishes, beverages or
whatever you would like to share.

**Games are planned, but more are welcome!*

RSVP Shawna Butler e-mail: SHBU461@ecy.wa.gov by June 2

'Conversations' begun by BF to connect with SWRO staff and

CONVERSATIONS WITH THE REGIONAL DIRECTOR

JULY 8, 2003 (3:00 – 4:00) Cafeteria

Brainstorm list of ideas for improvements:

1) LEADERS IN ENVIRONMENTAL PROTECTION

2) LEADERS IN CUSTOMER SERVICE

- HOW? Rivers, air, land → Cleaner
- We get back to people fast, clearly
- Could Monitor . . .
 - P/C's returned
 - Current turn-around within 24 hrs. (reasonable)
- Partners with other agencies, counties:
 - Pacific County
 - Tacoma
- How are we connected programmatically? (across programs)
- How does what I do fit with other successes?
- Celebrate more
- Newsletter – moral/support
- Bulletin board announcing successes – visual celebrate – intranet, BIG visual
- Reader Board
- Miles driven safely
- Humor
- Identify challenges SWRO faces
- Environmental – top 3 per month
- List who deals with issues by county, b program, by specialty...EPIC/
- Providing back-up important

beryl.fernandes

To: beryl.fernandes
Subject: SWRO successes: Follow-Up to "Conversations with the Regional Director"

-----Original Message-----

From: Berns, Pam
Sent: Friday, July 18, 2003 10:02 AM
To: ECY DL SWRO ALL
Subject: Follow-Up to "Conversations with the Regional Director"

Hello SWRO Region!

One of the many great ideas arising from the "Conversations with the Regional Director" ice cream social was celebrating successes of the SWRO. We discussed ideas that would help unify us as a group in Southwest and create an identity as region. You suggested sharing successes across programs in Southwest as one way to do this.

We are now asking you to send us your suggestions for successes that we could display and share. We will be sending a monthly e-mail asking for success stories and display them next to the drinking fountain by our reception area. Give us pictures, examples, photos, names of staff, citizens - whatever you choose. We will put up a bulletin board of approximately 3x4 size.

Please submit suggestions to Pam Berns by July 25 so that we can have the displays up by August 1. Please feel free to stop and visit Margaret Hill or Pam you want to discuss this further.

Thanks!

Margaret Hill
Pam Berns

beryl fernandes

To: . beryl fernandes
Subject: REMINDER - THREE "C'S" PARTY !!!

-----Original Message-----

From: Fernandes, Beryl
Sent: Tuesday, December 16, 2003 5:32 AM
To: ECY DL SWRO ALL
Subject: REMINDER - THREE "C'S" PARTY !!!

JOIN US FOR 1) CELEBRATION 2) CIDER AND 3) COOKIES

<<...OLE_Obj...>>

<<...OLE_Obj...>>

<<...OLE_Obj...>>

THURSDAY, DECEMBER 18, 3-4 PM

SWRO AREA

<<...OLE_Obj...>>

HOME-MADE COOKIES +

<<...OLE_Obj...>>

WELCOME

<<...OLE_Obj...>>

beryl fernandes

To: beryl fernandes
Subject: "MAD" - MAUREEN APPRECIATION DAY

-----Original Message-----

From: Gaskell, Sheryl
Sent: Friday, January 09, 2004 12:34 PM
To: Fernandes, Beryl
Subject: RE: "MAD" - MAUREEN APPRECIATION DAY

Terrific! I'll be there.

Sheryl Gaskell
Solid Waste & Financial Assistance Program
(360) 407-6380
sask461@ecy.wa.gov

<<...OLE_Obj...>>

-----Original Message-----

From: Fernandes, Beryl
Sent: Friday, January 09, 2004 12:24 PM
To: ECY DL SWRO ALL
Subject: "MAD" - MAUREEN APPRECIATION DAY

SWRO

AFTER-SNOW

MAUREEN APPRECIATION DAY

TUESDAY, JANUARY 13, 3-3.30PM

SWRO RECEPTION AREA

*WRITE AND BRING YOUR SPECIALLY-DECORATED
"MAD" CARD*

*"MAUREEN APPRECIATION DECLARATION" ON A 3 :
5 CARD*

<< OLE Object: Microsoft Photo Editor 3.0 Picture >> *SNACKS PROVIDED*
<< OLE Object: Microsoft Photo Editor 3.0 Picture >>

beryl fernandes

Subject: Maureen Garrett: Staff Appreciation

From: Garrett, Maureen [mailto:MGAR461@ECY.WA.GOV]

Sent: Thursday, January 15, 2004 11:28 AM

To: ECY DL SWRO ALL

Subject: Fruits & Veges. By SWRO Reception

Are you hungry? There are fruits and vegetables leftover from my MAD party the other day.

Thanks to every one who came to my Maureen Appreciation Day party. I really enjoyed all the attention. I enjoy working with all of you here at SWRO. Thanks again—it was a blast!

...Something I brought up at the party for managers...How about celebrating one employee's achievements a month? Like working hard in the field, communications with the public, doing a special project, dedication to the job...It is such a morale booster to know one is appreciated!

Thanks again every one.....

From: Berns, Pam
Sent: Monday, May 19, 2003 2:01 PM
To: Heinitz, Eric; Howard, Sandy (ECY); Sesna, Rodger; Merkl, Fritz; Brown, Doug; Warren, Bob; Blum, Mike (ECY); Alexanian, Dan; Stone, Alex; O'Neill, Hugh; Lawson, Rebecca; Davies, Laurie; Seiler, Kay; Susewind, Kelly; McKee, Kim; Cornett, Deborah; Schriever, Garin; Eberl, Steve; Davidson, Don; Ehlers, Paula; Loranger, Thomas J.
Subject: Service Awards

SWRO is having a potluck on June 5 (announcement will be forthcoming, and flyers/more info to be sent later).

- Beryl will hand out state service awards – do you have any? And,
- Also, red vine (licorice) awards – do you have anyone you'd like to recognize (and a brief paragraph of why)?
- Any other award/recognitions?

Can you let me know as soon as possible? Thanks for your help! Pam.

beryl fernandes

To: beryl fernandes
Subject: HELLO AND GOOD-BYE

Hello All:

YOU'RE INVITED TO A "HELLO AND GOOD-BYE" PARTY.

After a year and a half here, I want to let you know that I am resigning my position as Regional Director on October 29. My last day in the building will be Monday, October 11. I know this is short notice, but then, what of kind is there?

In the immediate future I'll re-join my consulting firm in urban and environmental planning, Fernandes & Associates, Inc. in Seattle.

*We'll have our next annual SWRO potluck on the patio outside the cafeteria from 11.30-1.30 on...you guessed it - Monday, October 11!
Remember last year's awesome wild Copper River salmon barbecue?*

All friendly people, in addition to those in SW, are invited. Please bring food and drinks to share. But most of all, bring good will, good cheer, good thoughts, good company, good music - anything that makes you smile :)

We'll have blank 3 X 5 cards and a basket for people to contribute "hello" and "good-bye" in as many exotic languages as you can come up with. Who knows, it may even evolve into a contest.

To contact me after October 11, write fernandesb@comcast.net, or call (206) 523-7694.

*Beryl Fernandes, Ph.D.
Regional Director, Southwest Region
Washington Department of Ecology
P O Box 47775
Olympia, WA 98504-7775
360/407-6307
bfer461@ecy.wa.gov*

Beryl Fernandes: Views from outside and inside Ecology

Impressions of the Department of Ecology began over 20 years ago for new Southwest Region director Beryl Fernandes when she worked as Policy Advisor to the Seattle City Council and the Snohomish County Council, and as a consultant running her own firm in urban and environmental planning in Seattle. In the last few months as she considered returning to government service, she explored Ecology among several other agencies. However, she was not optimistic. Although she has an Interdisciplinary Ph.D. in urban planning and environmental engineering and over 20 years of experience, with service as a Planning Commissioner, a board member of the Washington Environmental Council and the Coalition for Environmental Justice, she has run into plenty of firmly shut doors. This experience is similar to that of other qualified professionals of color looking for employment or consulting opportunities in the environmental field.

She was able to do quite a bit of research on Ecology's Web site, which she found easy to navigate and helped identify parts of the organization to explore further. When she talked with Ecology staff in informational meetings, she was impressed. "Every single person I talked to was dynamite - very bright, informative and encouraging." Obviously, Fitzsimmons was equally impressed. Fernandes was hired to head up the Southwest Regional office. Her first day on the job was March 12. Since that time, her positive impressions have continued.

"Then, I started to look further into the management style here. I read about the competitiveness council's findings and Ecology's response to them.. I saw this (the response) as an opportunity that Ecology took to make significant transformations a healthy sign of a forward-looking organization, an introspective and confident management and staff."

"I had heard a lot of good comments about Tom (Fitzsimmons), his management style and straight-forward approach from people outside as well as within the department and I'm eager to learn from such people," she added. "It was important to work with a Director and management team that wanted to include diverse interest groups, perspectives, economic and ethnic communities in environmental protection rather than retain it for a narrow group of society".

"I'm not always agreeing with management and staff or they with me. But what is truly remarkable is that I'm finding there is mutual respect for differing opinions and a willingness to listen." She does, however, notice that among some pockets of the organization there is a certain amount of "we've always done it this way", which she says is a natural and predictable response especially from people who have spent the majority of their working lives here. She also observes that although some staff don't realize it, they are among the fortunate few to have jobs such as these and says she has little tolerance for those who try to take advantage of the system.

"I wondered if my initial impressions would be borne out, but from the first day I've been having a blast. I've been enjoying every new experience, project and person I've been introduced to, diving into things with a sense of adventure, fun and challenge. I've also made forays into the region meeting elected officials, environmental organizations, businesses and citizens." She plans to spend time in each of the 12 counties in the Southwest Region developing connections to help keep us all better informed. She also anticipates that these connections will form the

infrastructure necessary to resolve issues early. All of this means many more hours than a customary work week, but she says her energy is fueled by the tremendous support and enthusiasm she has received from Tom, management, staff and the stakeholders she has met up to this point. She says she looks forward to a fruitful collaboration with management, staff and outside stakeholders so that "I contribute my small part to making Ecology a better department for everyone, including staff and the general public."

"I feel this is a good fit for several reasons, but perhaps one of the most significant is because I feel confident I'm being heard when I've been straightforward about things at Ecology that can be improved, sometimes touching on sensitive nerves such as diversity, environmental justice, inclusiveness, efficiency and accountability. I'm entirely at ease speaking up on any issue. "Is this just a honeymoon period, or is it a reflection of how things generally are and are going to be? Only time will tell, but I'm very optimistic and plan to do my part I feel confident I'm being heard I feel confident I'm being heard to make it a lasting reality."

Beryl Fernandes

From: [REDACTED]
Sent: Thursday, August 23, 2007 4:46 PM
To: Beryl Fernandes
Subject: Hello

Glad to hear from and hoping things are going your way. I am recovering from a hip replacement in June this year. I am fine still weak in the legs. As you might know that I do not work for ECY any more. I had a little medical problems that prevent me to fully do my job, so I resigned last [REDACTED]. I was placed in the hospital for several weeks.

after looking back at my career I really have done a lot, [REDACTED]

* But of all things at the ECY I really respected you for your position and the way you treat people, especial me, you are a good person. I really appreciated your kindness and most of all you. *

* Sorry to see you go but you have to do what you want in life to make you happen. I am still in [REDACTED] VA trying to keep myself busy. So much for that . Please keep in touch because you are special to me. *

[REDACTED]

Messages on
hearing BF
was leaving - before being
cut off

faru
Jessa
P1 of

YIKES. What a loss to DOE this will be! I do want to stay in touch about [REDACTED]
and see if - after the election - I can get connected with the Seattle women more for both
funding and sharing information. You will leave a big hole at DOE, I am sure. But hope
all goes well for you in the future! [REDACTED]

[REDACTED]

Beryl, I am disappointed to see you go. You were good for SWRO and Ecology. I
enjoyed my brief encounters with you, particularly the 1 on 1 TMDL project update(s).
You had very thoughtful questions and I enjoyed the discussions. But, I understand you
wanting to re-join your firm. I wish you best of luck and hope our paths cross gain.

[REDACTED]

Thank you for your very kind words. Yes, I too hope our paths will cross.

Hi Beryl,

So sad to see you go - we'll miss you on the vanpool! But I know some good things are
in store for such a talented, skilled person as yourself. [REDACTED] leaving also. It's interesting
that Ecology is losing so many good people at this time.....or maybe not.
Hope to talk to you soon - before you leave! Will you be on the van again?

[REDACTED]

Thank you so much, [REDACTED] I so enjoyed our conversations on the van. I don't
anticipate being on the van because I need to have a car down there to bring my
things back. But let's stay in touch. All the best to you. I'll be interested to hear
how you're doing in all the interesting aspects of your life.

Best,

Beryl

Beryl -

I will be driving to Spokane on Monday. But, I am very sorry to see you go. You
brought a willingness to listen and respond to all parts of the region that was and remains
desperately needed in DOE. You will be missed and I am very sorry to see you leave the
civil service, more folks like you are needed in government.

Best wishes.

[REDACTED]

[REDACTED]
Department of Ecology
SWRO Division
[REDACTED]

As a man thinks in his heart so is he. "One can not defeat that which they are not willing to fight!"

[REDACTED]

Thank you so very much for your very kind note. Can you stop in my office?
Beryl

So, were you inspired by [REDACTED]

[REDACTED]

Now it's your turn. Do let me know when you decide to make a move. Good luck.

Beryl:

What a surprise! I hope to see you sometime before Oct. 29th. I have your e-mail address too to contact you after October 29. It was really nice to know you and hope to continue our dialogue/acquaintances in the future. Wish you all the best!

[REDACTED]

OK. I'll look forward to continuing our interactions.

Beryl

Farewell Me
p 3 of 4

Many thanks, [REDACTED], I've so appreciated our interactions, ever since that first time we drove up from [REDACTED]

Beryl

What ? No, please don't leave. You've made Ecology better just being here!

[REDACTED]

[REDACTED]

Thank you for your kind words. It's been so refreshing running into you. You're different, bold, not afraid. Continue to be yourself.

Beryl

Beryl,

You'll have to give me the straight poop on this sometime, but not via e-mail. I wanted to thank you again for taking the time to meet with [REDACTED]. She seems to be working well over in [REDACTED]. I have also hired a woman from [REDACTED], so we are getting a bit of color into the region. I'm sorry things did not work out well for you here but I am sure you will continue to do well in your consulting career. I will probably stay here at least for the time being. My family situation is such that I need some economic stability for a while.

Best wishes always,

[REDACTED]

Thanks so much [REDACTED]. Yes let's stay in touch [REDACTED] not far from Seattle.

Best,

Beryl

Reclaiming is the process: Usable WATER is the result.
Ecology protects our air, land and water for a better Washington.

Thank you so much, [REDACTED] Please do stay in touch. I'm happy to share anything with you along the way.

Beryl.

I'm sorry to hear that Beryl. Best wishes to you and your new path.

[REDACTED]

Thank you [REDACTED] and many thanks for all the help you've given us in SW. You know, we just figure you're one of us.

Beryl

Wow - that was fast! It's been nice having you here - and I've always enjoyed your welcome talks with the [REDACTED]. It's great to see people like yourself embrace their life this way - too often, once people come to work for the State, they end up resisting change or moving forward. When the moment is right, I too will up and be gone in a moment. Living life this way keeps us young!! Have a great new adventure and I'll try to be here on the 11th.

[REDACTED]

Thank you so much [REDACTED] for your kind words and the opportunity to get to know you and [REDACTED]. You do a terrific job and I've been totally impressed. If there's any way I can ever help, let me know. You have my forwarding info below.

Beryl

Beryl! Why didn't you grab me in the hallway this a.m. & let me know????

We gotta talk, girlfriend! Are you free for lunch on Friday?

[REDACTED]

Yep, I could make Friday work. Get a group together?

Beryl

1450 1 01

From: "Fernandes, Beryl" <BFER461@ECY.WA.GOV>
To: <fernandesb@comcast.net>
Sent: Tuesday, April 27, 2004 5:25 PM
Subject: [REDACTED] : Home front

-----Original Message-----

From: Fernandes, Beryl
Sent: Tuesday, April 20, 2004 11:51 AM
To: [REDACTED]
Subject: Home front

[REDACTED]

Thank you for sharing news about your wife. You have every reason to be optimistic.

I'm not sure if I've mentioned this to you, but I have done quite a bit of volunteer work with women cancer survivors and am constantly amazed at their resilience, their incredibly strong come-backs. I have helped train and condition them for outdoor activities such as mountain climbing, hiking and distance cycling. Yep, they've climbed Mt. Rainier, Baker and accomplished other great feats they had never done before their illnesses.

Your support is going to be even more crucial for her, but don't forget to also take care of yourself in the process.

Best to you both.

Let's try to schedule some time on each of our calendars. I've always enjoyed my conversations with you. I'll leave it to you to let Loma know when you feel like it.

Beryl

-----Original Message-----

From: [REDACTED]
Sent: Tuesday, April 20, 2004 11:41 AM
To: Fernandes, Beryl
Subject: RE: [REDACTED]

Beryl,

Not always, I have been known to blow it on occasion. More often inside the agency than outside. That keeps me humble -- relatively humble anyway. Thanks.

Bad news on the home front, the original biopsy reports for my wife were perhaps too optimistic. We found out Friday after additional tests that she will have to have surgery to remove some cell mass that shouldn't be there whether it is "bad" or not. But we are choosing to be optimistic. It was found early and hopefully will not be a problem after the surgery.

[REDACTED]

7/21/2009

-----Original Message-----

From: Fernandes, Beryl

Sent: Tuesday, April 20, 2004 11:33 AM

To: [REDACTED]

Subject: [REDACTED]

[REDACTED]

As always, you were terrific!

Beryl

From: "Fernandes, Beryl" <BFER461@ECY.WA.GOV>
To: <fernandesb@comcast.net>
Sent: Thursday, March 11, 2004 8:33 AM
Subject: FW: WRMT agenda item

-----Original Message-----

From: Fernandes, Beryl
Sent: Wednesday, March 10, 2004 12:26 PM
To: McKinney, Scott; Ehlers, Paula
Cc: Wiatrak, Phil (ECY); Duffy, Bob; Craig, Steve; Nelson, Cynthia; Jennings, Kahle K.
Subject: RE: WRMT agenda item

Scott, thank you for the bringing up this issue. We need to do this type of coordination on all our responses. Let's use this process to develop a model we can use.

Beryl

-----Original Message-----

From: McKinney, Scott
Sent: Wednesday, March 10, 2004 10:45 AM
To: Ehlers, Paula; Fernandes, Beryl
Cc: Wiatrak, Phil (ECY); Duffy, Bob; Craig, Steve; Nelson, Cynthia; Jennings, Kahle K.
Subject: WRMT agenda item

Hello all,

I would like to discuss the draft Lower Columbia Salmon Recovery documents and Ecology review of them at the next WRMT. The timeline allowed for agency review is relatively short, but many pieces of the recovery plan will impact water quality, shorelands, floodplains/wetlands, and water resource issues. It is important that we develop a plan for review that meets the recovery plan timeline.

So I would like at least half an hour to discuss the various chapters available and who the potential reviewers may be at Ecology, as well as eventual transmission of Ecology comments, signature authority, etc.

Thanks,

Scott McKinney
Watershed Lead, WRIAs 25-29
Southwest Regional Office
SEA Program, WA Dept. of Ecology
(360) 407-6389

beryl fernandes

To: beryl.fernandes
Subject: BF to LH - URGENTG - Marcel Szyszkowski telecommuting request

-----Original Message-----

From: Fernandes, Beryl
Sent: Sunday, November 30, 2003 3:51 PM
To: Hoffman, Linda
Cc: Fernandes, Beryl
Subject: URGENTG - Marcel Szyszkowski telecommuting request

Subject: Marcel Szyszkowski telecommuting request

Linda:

PURPOSE

I am writing to ask for you to make a Director-level decision to grant Marcel's request to telecommute part-time while in Boston to undergo treatment for cancer.

I received messages from Marcel and Mike Blum, acting TCP section manager, informing me that Rebecca Lawson has declined Marcel's request for part-time telecommuting. Since Rebecca does not report to me, I don't believe I can overrule her decision, but you have the authority to do so.

RECOMMENDATION

As SWRO regional director, I'm recommending that you grant this request to a terminally-ill person.

BACKGROUND

Marcel Szyszkowski in TCP-SWRO has been terminally ill with cancer for some time. Having exhausted his treatment options in Washington, he is among a handful who have been accepted for an experimental treatment in Boston lasting three months. This is his last chance for survival - literally. He is scheduled to leave very shortly (possibly this week) to begin his treatment there. With donated sick leave, he has enough to cover the period of his treatment.

ISSUE

With this type of treatment Marcel is confident he will be able to and wants to work - at least part time while he's there.

NEXT STEP

Marcel has appealed to me as the agency Director's representative and I am writing to ask you to approve this request.

RATIONALE FOR DIRECTOR INVOLVEMENT

- a) SWRO's prior approval of telecommuting for illness requests
- b) Need for Consistency
- c) Potential liability
- d) Agency "heart"
- e) Work plan and feasibility

a) SWRO, beginning with Sue and continuing with Neil have approved telecommuting of at least one person I'm aware of due to illness. This person is part of the SWRO administrative staff. The agency purchased a laptop computer and a cell phone for that person's use and authorized paid absence from work well after the person's recovery and return to work. Although I'm not familiar with the details, I am told that there is precedent in SW with other staff people who have been allowed to telecommute while ill.

- b) This issue raises the question of standardization of policy in the regions across programs.
- c) Without the benefit of expert knowledge it appears to me that as an agency we could be vulnerable in unevenly applying telecommuting policies. I also think it is prudent to deal with this issue at this level rather than have it elevated because of our denial and having to deal with it in another forum.

d) Finally, and most importantly, one of Tom Fitzsimmon's most memorable quotes to me was "Where would we be as an agency if we didn't have heart?". Marcel's engagement during recovery is likely to improve his chances of recovery. Marcel will be away from his wife and children and from his workmates. Telecommuting could provide his only real connection to the life he knew, an opportunity to feel that he is still contributing as a valuable human being - all important to increasing his odds of survival. It would also provide an easier transition for his return.

e) It is my understanding that Marcel has developed or is prepared to develop a work plan to demonstrate he could effectively conduct the Voluntary Cleanup Program projects he has been assigned from a distance with necessary safeguards to ensure quality control, etc.

Beryl

Original Message -----

~~From: Bernadette Beryl~~

To: 'marcelszy@excite.com' ;

Sent: Wednesday, January 14, 2004 9:04 AM

Subject: RE: Marcel

Marcel:

I'm SO happy to hear this great news. I'm now having a hard time sitting still.

Thank you for sharing it with us. We're with you - all the way.

Here's a picture of sunrise on Willapa Bay I took from an oyster boat. Yes...the sun does rise.

Marcel, I'm just thrilled for you. Please share my wishes for the very best with your family.

Beryl

-----Original Message-----

From: Marcel Szyszkowski [<mailto:marcelszy@excite.com>]

Sent: Wednesday, January 14, 2004 7:43 AM

To: marcelszy@yahoo.com

Subject: Marcel

Friends,

just got good news this morning. The drug is apparently working, we stopped the growth of the tumor.

I am quite excited, even though the temperature outside is just about 0F, and the wind is making it much much worse.

I hope you all are doing fine.

Thanks for your good wishes and thoughts.

Marcel

beryl fernandes

To: beryl fernandes
Subject: BF to Doug Brown Sept 23-Your support at RMT retreat

-----Original Message-----

From: Fernandes, Beryl
Sent: Tuesday, September 23, 2003 3:19 PM
To: Brown, Doug
Cc: Burg, Mary E.; Fitzsimmons, Thomas
Subject: Your support at RMT retreat

Doug:

I want to let you know that I very much appreciated your thoughtful and supportive comments at yesterday's RMT retreat. It meant a whole lot to me to have even one person try and bring a reasoned perspective to what felt like a three-hour pelting by some 12 people directed squarely at me. You showed great courage and independence of thought.

Beryl

Beryl Fernandes

From: Beryl Fernandes
Sent: Tuesday, October 05, 2004 6:12 AM
To: [REDACTED]
Subject: Re: Sorry to hear you're leaving

Thanks very much for your sensitivity. [REDACTED]

Beryl

----- Original Message -----

From: [REDACTED]
To: Beryl Fernandes
Sent: Monday, October 04, 2004 8:53 PM
Subject: Sorry to hear you're leaving *

Beryl:

I don't know what all has gone into your decision to leave, but I'm sorry to hear it. You took on a very difficult and daunting task when you came to SWRO as Regional Director. It is an incredibly complex mix of state, federal and local government, politics, institutional culture, personalities, public policy, and...oh, I left out your complicated commute from Seattle. I wouldn't last a week in the job.

* I'm sorry that I wasn't more of a presence when you were trying to make your way as the new RD. I'm only staff, of course, but I've been in SWRO for almost 15 years, and I regret I haven't made more effort to get to know you and/or be of help. Mea culpa.

In any event, I certainly wish you well now in whatever lies ahead professionally.

Stay in touch. [REDACTED]

Best Regards...(and I'll try to remember that magazine article!)

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

Beryl Fernandes

From: [REDACTED]

Sent: Wednesday, March 21, 2007 8:36 AM

To: fernandesb@comcast.net

Subject: ECY

Beryl,

It has been an awfully long time and I just wanted to give you a hello and see how you were doing. As you might imagine, life at Ecology is still interesting and busy. As I become more and more wrapped up with spending as much time as possible with my son (now almost two-and-a-half), work consumes less of my emotional energy and more of my mental. I think he came just in time to keep me from becoming a workaholic.

I hope all is well with you and yours.

Best Regards,

[REDACTED]

Beryl Fernandes

From: Beryl Fernandes

Sent: Wednesday, December 22, 2004 1:14 PM

To: [REDACTED]

Subject: Best Wishes

Hey [REDACTED]

I just found one of your [REDACTED] candies. I'm so glad one of them managed to find its way into my house. I'll save it. That was a very special memory for me to take with me. Thank you for your thoughtfulness.

Best wishes to you and your family this season and in the New Year.

Beryl

Beryl Fernandes

From: Beryl Fernandes
Sent: Thursday, October 14, 2004 1:44 PM
To: [REDACTED]
Subject: Re: That dam photo

Hey [REDACTED]

Thanks for the fun foto! I'm glad I was able to participate in the fun part of that project. The not so fun part, I left up to you guys.

Make sure that rascal has my email address. He needs to provide his excuses to me directly - not through an intermediary.

Great to hear from you. Keep those emails coming.

Beryl

----- Original Message -----

From: [REDACTED]
To: 'fernandesb@comcast.net'
Sent: Thursday, October 14, 2004 1:39 PM
Subject: That dam photo

Hi Beryl, here's the picture from the [REDACTED] Sorry it took so long!

I hope you're taking your time easing your way into your new life and not missing the commute too much! I spoke with [REDACTED] this morning and he said he got rushed off to an emergency meeting last Friday so he had to miss your going away lunch. He felt bad for [REDACTED]

* It was good to work with you on the [REDACTED] What happens now I don't have a clue. What else is new, eh? *

Take care,

Beryl Fernandes

From: Beryl Fernandes

Sent: Monday, October 18, 2004 2:13 PM

To: [REDACTED]

Subject: Re: I missed you

[REDACTED]

I'm SO happy to hear from you. Congratulations on the baby. At some point, email a photo if it's not too much trouble.

Best wishes to your wife and a big hug for the wee one.

Again, great to hear from you.

Beryl

----- Original Message -----

From: [REDACTED]

To: 'fernandesb@comcast.net'

Sent: Monday, October 18, 2004 1:24 PM

Subject: I missed you

Beryl,

I'm sorry I missed your farewell barbecue.

* I have enjoyed my dealings with you and will miss your smiling face. *

Best wishes for your future.

Regards,
[REDACTED]

----- Original Message -----

From: [REDACTED]
To: fernandesb@comcast.net
Sent: Sunday, October 24, 2004 7:07 PM
Subject: [REDACTED]

Good Evening Beryl;

How are things with you? Work has been busy since [REDACTED] I actually worked all last week end [REDACTED] I worked long hours and I learned alot. Each event is different and a great opportunity to use what I have learned, and learn even more from those around me.

My address is:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Thank you for the letter. It is very kind of you think of me, and I appreciate it very much. *

I hope to hear from you soon - [REDACTED]

[REDACTED]

beryl fernandes

From: Fernandes, Beryl
Sent: Tuesday, April 27, 2004 3:39 PM
To: 'fernandesb@comcast.net'
Subject: Hugh 5/13/03 : Diversity follow-up

-----Original Message-----

From:
Sent: Tuesday, May 13, 2003 3:25 PM
To: (O'Neill; Hugh}
Subject: RE: Diversity follow-up

What a refreshing voice of reason. We need to talk some more - no specific agenda - just ve
pleased to hear your views. And relating this issue to post-modern philosophy - how often c
we hear that in this building? My undergrad degree was in philosophy :)

Let's find time on our calendars 2nd or 3rd week of June? Here are some options. Th June 5
open after 10.

beryl

-----Original Message-----

From: O'Neill, Hugh
Sent: Tuesday, May 13, 2003 2:01 PM
To: Fernandes, Beryl
Cc: Seiler, Kay
Subject: RE: Diversity follow-up

Beryl:

I was out most of last week, so I'm just getting around to e-mail today.
The idea got started in a discussion at one of our Unit meetings. We identified diversity of
perspective or point of view as important issues for us to consider.

It may also have resulted from discussions around the Code of Conduct, because of concerns
around the concept of "objectivity." In some circles (like post-modern philosophy)
objectivity is considered to be impossible to
achieve since we all have bias and preconception. So, the best we may be
able to do is to describe our bias (e.g. where we come from, what our main influences have
been, etc.) at the outset. This leads to the realization that our perspective is necessarily
limited and that we may benefit from hearing other (especially seldom heard) voices.

I hope that this helps. Let me know if you have other questions. Yes, you can show it to
RMT.

Hugh

-----Original Message-----

From: Fernandes, Beryl
Sent: Friday, May 02, 2003 4:50 PM
To: O'Neill, Hugh
Subject: RE: Diversity follow-up

Can you tell me how this idea got started? I'd love to use it as an example and spread it around other sections and programs. If it's ok with you, I'd like to distribute copies at on Monday as an example of what you are doing.

Beryl

-----Original Message-----

From: O'Neill, Hugh
Sent: Friday, May 02, 2003 4:34 PM
To: Fernandes, Beryl
Cc: Seiler, Kay; Stone, Alex; Mainz, Vern; Goldberg, Bob; Davies, David B.; DeMay, James; Kennedy, Judith C.; Pang, Linda; Bantowsky, Margit; Schleyer, Laura
Subject: RE: Diversity follow-up

Hey Beryl:

Here are the results of our (Toxics Reduction) unit brainstorm. Staff signed up for certain topics and now we just need to draw up a schedule. Our meetings are typically the 2nd and 4th Tuesdays of the month from 1:30 to 3:15 p.m. Let me know if you have comments or specific speaker suggestions. I'll pass along the schedule once it is developed. Thanks for your interest and support.

Hugh O'Neill
7-6354

<< File: TRU Diversity Brainstorm Results2.doc >>

-----Original Message-----

From: Fernandes, Beryl
Sent: Friday, May 02, 2003 8:02 AM
To: O'Neill, Hugh
Cc: Seiler, Kay
Subject: Diversity follow-up

Hi Hugh:

I was delighted to hear you initiate the conversation about diversity when I met with your section last week. I'd like to follow up with you and anyone else in your section on what we can do - informally and individually. At RMT last Monday I suggested we declare this month "diversity month" and challenged each manager to come up with ideas/actions to promote diversity.

At the end of the month, whoever has done the most/best, will get a PRIZE !!!

At this point, your section is in the lead because two staff initiated the discussion. YEAHHH!!! Maybe your retreat next week will provide an opportunity to tap into the ideas your staff have to win this contest :) Again, let me know if there's any support I can lend to what you appear to have already begun.

Together - WE can make a difference.

Beryl Fernandes, Ph.D.
Regional Director, Southwest Region
Washington Department of Ecology
P O Box 47775
Olympia, WA 98504-7775

360/407-6307

bfer461@ecy.wa.gov