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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

KITTITAS COUNTY, a political subdivision of the State of Washington, BUILDING INDUSTRY ASSOCIATION OF WASHINGTON (BIAW), CENTRAL WASHINGTON HOME BUILDERS (CWHBA), MITCHELL WILLIAMS, d/b/a MF WILLIAMS CONSTRUCTION CO., TEANAWAY RIDGE, LLC, KITTITAS COUNTY FARM BUREAU, and SON VIDA II,

Petitioners,

v.

KITTITAS COUNTY CONSERVATION, RIDGE, FUTUREWISE, EASTERN WASHINGTON GROWTH MANAGEMETN HEARINGS BOARD, and DEPARTMENT OF COMMERCE

Respondents.

BRIEF OF *AMICUS CURIAE* CENTER FOR ENVIRONMENTAL LAW AND POLICY

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IDENTITY AND INTERESTS OF AMICUS

Amicus Center for Environmental Law & Policy ("CELP") submits this brief to address the authority and obligation of counties and the Department of Ecology ("Ecology") to regulate water usage under Washington's water and development laws. CELP has a long and committed history of involvement with the protection and management of Washington's water resources throughout the state, and in the Yakima Basin in particular. Clarity regarding the respective obligations and authority of the counties and Ecology in the management of water resources is critical to ensure that growing demand for water does not undermine CELP's and the public interests in protections for fish and wildlife habitat, the preservation of water quality, and protections for existing water rights. In accordance with R. App. P. 10.6(b), CELP has concurrently filed a motion for leave to file this brief which further sets forth CELP's longstanding interest in and familiarity with these issues.

STATEMENT OF THE CASE

On July 19, 2007, the Kittitas County Commissioners enacted a Kittitas County Development Code Update as Ordinance 2007-22. Several elements of this update were appealed by Kittitas County Conservation Coalition, RIDGE, and Futurewise (collectively "KCC") to the Eastern Washington Growth Management Hearings Board ("Board").

On March 21, 2008, the Board invalidated some sections and remanded portions of the Development Regulations to Kittitas County as noncompliant with the Growth Management Act ("GMA"). Final Decision and Order, Case No. 07-1-0015 ("FDO"). AR 1193-1261. The County and intervenors filed notices of appeal in Kittitas County Superior Court, and KCC *et al.* moved for direct review. On August 8, 2008, Division III of Washington Court of Appeals granted direct review. This case was consolidated by the Court of Appeals with another case appealing changes to the Kittitas County Comprehensive Plan, and on February 3, 2010, the Court of Appeals certified two questions to the Washington Supreme Court. The certified question addressed in this amicus brief is "whether state law, which assigns authority to the Department of Ecology ("Ecology") to regulate water rights and to exempt certain withdrawals from the permit process, precluded the County from regulating water usage here." Order consolidating linked cases and certifying consolidated cases to the Washington Supreme Court, at 5.

BACKGROUND

Water is over-appropriated in the Yakima Basin. Approximately three years out of ten, water supply is inadequate to meet the demand of existing water rights holders; in short water years, junior water rights are curtailed across the basin. In recent years, water rights with priority dates

as old as 1905 have been curtailed; these include the town of Roslyn's municipal water supply and another 133 single domestic, group domestic, and municipal water systems.[1] The adjudication of surface water rights in the Yakima River Basin, in litigation since 1977 including thrice before this Court, involves "literally thousands of parties, and significantly impacts the economy and future of those living in the Yakima River basin." *Department of Ecology v. Yakima Reservation Irr. Dist.*, 121 Wn.2d 257, 262, 850 P.2d 1306 (1993) (*Acquavella II*); *see also Department of Ecology v. Acquavella*, 131 Wn.2d 746, 935 P.2d 595 (1997) (*Acquavella III*); *Department of Ecology v. Acquavella*, 100 Wn.2d 651, 674 P.2d 160 (1983) (*Acquavella I*); *Department of Ecology v. Acquavella,* 112 Wash. App.729, 51 P.3d. 800 (2002) (*Acquavella IV).*

Despite the fact that "there is not enough water to meet all existing needs of the present water right holders in the Yakima basin," *Hillis v. Department of Ecology*, 131 Wn.2d 373, 391, 932 P.2d 139 (1997), new permit-exempt groundwater wells have proliferated throughout the basin. Groundwater wells for domestic uses in an amount not exceeding 5,000 gallons per day are exempt from permitting under the groundwater code. RCW 90.44.050. However, this Court has made clear that such wells are

[1] Dept. of Ecology, Rule-Making Order CR 103-E (July 21, 2010), available at http://www.ecy.wa.gov/laws-rules/wac173539a/x1012.pdf.

exempt *only* from the permitting requirement and are subject to all other tenets of the water code, including the requirement that new appropriations may not impair senior rights. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002).

Numerous studies have established that groundwater and surface water bodies in the Yakima Basin are hydrologically connected, as is often true in basins throughout the state. Accordingly, Ecology has recognized that groundwater withdrawals, including withdrawals from permit-exempt wells, are likely to be negatively affecting the already-impaired flow of the Yakima river and its tributaries. Ecology has enacted no fewer than eight emergency rules withdrawing groundwater in Upper Kittitas County, the upper watershed of the Yakima basin; the emergency rule currently in effect withdraws all groundwater in Upper Kittitas from further appropriation, including withdrawals from new permit-exempt wells.[2]

ARGUMENT

The Growth Management Act imposes a duty on counties to protect water resources in making decisions within their authority. Both

[2] *Id.*; *see also* WAC 173-539A. Ecology has enacted eight emergency rules, the last four of which have closed the Upper Kittitas Valley to all new, unmitigated groundwater withdrawals, including permit-exempt wells. Ecology's proposed permanent rule contains similar provisions, and is expected to be adopted some time this autumn. *See* Proposed Chapter 173-539A WAC, *available at http://www.ecy.wa.gov/laws-rules/wac173539a/p0812a_2010.pdf.*

Ecology and individual counties have responsibilities under state law to protect water, and these obligations are neither conflicting nor overlapping. In this instance, the Growth Management Hearings Board properly held that Kittitas County's development regulations must adequately protect water resources. Accordingly, CELP respectfully requests that this Court answer certified question (1) in the negative and find that state law does not preclude the County from regulating water usage. Indeed, to the extent that it considers the question at all, the Court should find that state law affirmatively requires the County to address water resources in both its comprehensive planning as well as individual land use permitting decisions.

I. THE GMA REQUIRES COUNTIES TO CONSIDER AND PROTECT WATER RESOURCES WHEN MAKING LAND USE DECISIONS

Washington state law assigns counties and the Department of Ecology separate and complementary obligations regarding water usage. These obligations include responsibilities related to permit-exempt wells. Under the water code, the Department of Ecology has the sole authority to authorize new appropriations of water and to establish basin-wide regulations guiding water use and management. RCW 90.03.290; RCW 90.44.060; RCW 90.54.020; RCW 90.54.040; RCW 90.54.050. Counties, in contrast, are required as part of the land use planning and permitting

process to ensure that new development comports with existing water law, including the regulations and guidance issued by Ecology. RCW 58.17.110; RCW 19.27.097; RCW 36.70A.070(5)(c)(iv); RCW 36.70A.020(10).

The Department of Ecology "is the primary administrator of water resources in Washington" and has authority to regulate water usage and permit-exempt wells in multiple ways, both at the level of individual withdrawals and basin-wide.[3] At the individual level, Ecology is obligated to grant or deny individual permits for new appropriations of surface water or groundwater based on whether water is available for appropriation without interference with existing rights, among other factors. RCW 90.03.290; RCW 90.44.060. At the basin level, Ecology has broad authority to close basins to further appropriations where no water is available for new withdrawals, and to establish in-stream flow rules which are senior to all subsequent withdrawals. RCW 90.54.020; RCW 90.54.040; RCW 90.54.050. Ecology has exercised this authority in the Upper Kittitas basin by, inter alia, closing the basin to new appropriations,

[3] Permit-exempt wells are also subject to regulation by the state Department of Health, which oversees the quality and safety of drinking water in Washington. *See* RCW 70.119A.080; RCW 43.20.050(2)(a) (Board of Health shall adopt rules "necessary to assure safe and reliable public drinking water and to protect the public health.").

including new permit-exempt wells.[4]

Counties have broad authority over land use and are required by the Growth Management Act to plan for responsible and sustainable growth and resource management. In the context of land use and growth management, the GMA requires counties to protect surface water and groundwater resources in their comprehensive plans for growth. RCW 36.70A.070(5)(c)(iv); RCW 36.70A.020(10). And at the individual use level, the GMA requires counties to determine whether adequate water is available before granting permits for new subdivisions or new building permits. RCW 58.17.110; RCW 19.27.097.

In short, state law demands that counties protect water resources in two ways: by making individual water availability determinations before authorizing new buildings or subdivisions, and by protecting water resources through the comprehensive growth planning process. Both of these obligations are distinct from and guided by Ecology's duties under the state water codes.

The counties' obligation to determine water availability before issuing permits for new subdivisions or building projects is explicitly addressed in the text of the GMA. The GMA requires proof of an

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[4] Dept. of Ecology, Rule-Making Order CR 103-E (July 21, 2010), available at http://www.ecy.wa.gov/laws-rules/wac173539a/x1012.pdf.

adequate water supply before counties may grant new building permits:

> Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. . . . . An application for a water right shall not be sufficient proof of an adequate water supply.

RCW 19.27.097. Similarly, the GMA requires counties to determine whether adequate water is available before approving a proposed subdivision:

> A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for . . . potable water supplies . . . .

RCW 58.17.110. These GMA requirements lie at the heart of the counties' water resource obligations, and have only been cursorily touched on by the other parties.

Kittitas County claims that the duties imposed by the GMA to ensure that water is available before granting development applications extend only to whether water is "factually" available—i.e., whether or not there is actual water in the well—but not whether water is "legally" available. Kittitas County Response to Ecology Amicus at 12-14. Not surprisingly, no support is offered for this claim, nor can any be found. To the contrary, there is abundant support for the proposition that the

counties' duty to determine whether water is "available" requires the county to determine both whether water is legally available for appropriation and whether the water is potable.

A 1992 Attorney General Opinion addressed the meaning of this statutory obligation in detail, concluding that water availability was more than just the physical presence of potable water. Rather, the Opinion concluded, "in determining whether a water supply is adequate, . . . a local building department must consider both the quantity and the quality of the water." 1992 AGO No. 17. In doing so, "the local building department will be guided by existing laws regarding public water systems and appropriation of waters of the state." *Id.* The Opinion notes that this requirement finds support in the legislative purposes of the GMA, which include "support for construction of new buildings that can be sustained with available resources, including water. *See* RCW 36.70A.010, .020. By implication, the goals also discourage construction that cannot be supported by available resources." *Id.* The Opinion also explicitly confirms that it is the counties that must make this water availability determination, in accordance with rules and guidance issued by Ecology. Department of Commerce regulations enacted just this year confirm that 1992 AGO No. 17 should be "consulted for assistance in determining what substantive standards should be applied" in making water adequacy

determinations. WAC 365-196-825(2).

Similarly, formal guidance issued by Ecology confirms that the counties must consider the legal availability of water before granting new permits, and must look to the rules and guidance issued by Ecology in making this determination. In 1993, Ecology and the state Department of Health jointly issued "Guidelines for Determining Water Availability in New Buildings." Ex. 1. Those guidelines state: "Ecology regional offices will notify local permitting authorities about areas where water is no longer available for appropriation or areas where Ecology is investigating problems concerning water availability. The local permitting authority must consider this information before proceeding with issuance of additional building permits within such an area." *Id.* at 2; *see also id.* at 4 (water well test reports "indicate *only* the *physical* availability of water. They do not indicate the legal availability of water.") (emphasis in original). Finally, the only court to address this issue also confirmed that counties are required to make water availability determinations as mandated by the GMA. *Swinomish Indian Tribal Community v. Skagit County*, 138 Wash. App. 771, 780 (Div.1, 2007) (a "County is legally required to follow the dictates of [RCW 19.27.097].").

In practice, the counties' water availability determinations will depend in significant measure on the water source on which a subdivision

or building permit applicant intends to rely, and Ecology rulemaking or formal findings on such sources. Where an applicant intends to rely on a public water system for its water supply, the inquiry will not generally be difficult: absent an indication that public water supply is overextended or in violation of its water rights permit, counties may simply require that an applicant provide "a letter from an approved water purveyor stating the ability to provide water." RCW 19.27.097. Where an applicant intends to rely on a new or transferred water right, counties must simply ensure that the applicant actually possesses a water right from the Department of Ecology. *Id.*

Where an applicant plans to rely on a permit-exempt well, counties must conduct the water availability determination in accordance with state water law, including the water rights statutes, RCW Chapters 90.03 and 90.44, the rules and regulations issued by the Department of Ecology, and the holdings of this Court. Where, for example, Ecology has closed a basin to further groundwater withdrawals, counties have an obligation to deny subdivision and building permit applications that seek to rely on any groundwater withdrawal that is not mitigated.[5] Ecology's closure of a basin by rule "embod[ies] Ecology's determination that water is not

[5] See, e.g., Proposed WAC 173-539A-050 (requiring water budget neutrality), *available at http://www.ecy.wa.gov/laws-rules/wac173539a/p0812a_2010.pdf.*

available for further appropriations." *Postema v. Pollution Control Hearings Bd.*, 142 Wn.2d 68, 95, 11 P.3d 726 (2000). Such a rule would be an example of a "state water appropriation law" which the counties must follow in making availability determinations. 1992 AGO No. 17. Such applicant is not without recourse: the project proponent could demonstrate water availability by, for example, proposing appropriate mitigation as allowed by Ecology rule, or by obtaining a transfer of an existing water right from Ecology.

In fact, this appears to be Kittitas County's current position on this question, despite their position in this litigation. In a recent letter to Ecology, Kittitas County stated that:

> In an area where Ecology has adopted a rule prescribing that new groundwater uses cannot occur without mitigation to ensure water-budget-neutrality, a county cannot make the finding of adequate water supply required by [R.C.W. 19.27.097] when the building permit applicant has not provided evidence that they have a legally supported water supply.

Ex. 2. Surely there is water physically "available" at some depth in Upper Kittitas County—but Kittitas County's position reflects their understanding that it has a duty to ensure that water is "legally" available as well. Because Ecology has closed the basin to new withdrawals, water is no longer legally available and the County is prohibited under RCW 19.27.097 and RCW 58.17.110 from issuing permits unless a lawful

alternative water source is identified.

The same situation exists where Ecology has closed a surface water body by rule and an applicant intends to rely on a new withdrawal from a potentially hydraulically connected groundwater body. Where streams are closed, new water is no longer "legally" available for appropriation—even if there is physical water in the stream. Accordingly, counties must deny the application if the withdrawal would have *any* effect on the flow or level of the surface water, even a de minimis one. *Postema*, 142 Wn.2d at 90, 95. Likewise, where Ecology has established minimum in-stream flows by rule, subsequent groundwater withdrawals may not contribute in any way to the impairment of such flows. *Id.* at 81. Because it is the applicant's burden to "provide evidence" that water is available for a new subdivision or building, RCW 19.27.097; RCW 58.17.110, a permit for a new building or subdivision must be denied unless the applicant can demonstrate factually that a proposed new withdrawal from a groundwater body potentially hydraulically connected to an impaired surface water body will not cause any further impairment, no matter how small.

Finally, counties must also deny subdivision or building permit applications where an applicant intends to rely on permit-exempt wells in a manner inconsistent with the holdings of this Court on water law. This

Court has made clear that the domestic uses portion of the permit-exemption entitles developers to only a single permit-exempt well for a single development project. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 11, 43 P.3d 4 (2002); RCW 90.44.050 (wells are exempt from permitting "for single or group domestic uses in an amount not exceeding five thousand gallons a day."). Counties are therefore obligated to deny subdivision and building permit applications where the applicant proposes to rely on multiple exempt wells for a single project, as the exemption is not legally available for such uses.

In addition to their duty to determine water availability before authorizing new development, counties are obligated to protect surface water and groundwater resources in their comprehensive plans for growth. RCW 36.70A.070(5)(c)(iv); RCW 36.70A.020(10). Specifically, the GMA requires that all comprehensive plans include "measures that apply to rural development and protect the rural character of the area" by "protecting surface water and groundwater resources." RCW 36.70A.070(5)(c)(iv). Under these GMA provisions, counties must ensure that their comprehensive plans protect water resources by only allowing new development where adequate water is available. Counties may meet this obligation by preventing growth in areas where Ecology has found that water is limited (for example, where a basin is closed to new

appropriations or where an in-stream flow rule is not met). Alternatively, counties may allow limited growth in such areas so long as their comprehensive plans and development regulations allow them to make accurate water availability determinations under RCW 58.17.110 and RCW 19.27.097, thus ensuring that "the rural character of the area" and surface and groundwater resources are fully protected. RCW 36.70A.070(5)(c)(iv).

The GMA's requirement that counties determine whether water is available before approving new development does not in any way conflict with the duties of the Department of Ecology to administer the state water codes. To the contrary, the duties of the state and of the local governments co-exist and complement one another.[6] Local government water availability determinations—a legal condition precedent to new development projects—are made in light of and must comport with the rules and guidance issued by Ecology, along with all other sources of state water law. Indeed, because permit-exempt wells are, by definition, not subject to review and approval by Ecology before construction, counties are in possession of a critical source of authority (i.e., to review

[6] Indeed, the Water Resources Act of 1971 contemplates that "[a]ll agencies of state and local government, including counties and municipal and public corporations, shall, whenever possible, carry out powers vested in them in manners which are consistent with the provisions of this chapter." RCW 90.54.090.

subdivision and building permit applications for water resource impacts) that gives practical, on-the-ground effect to Ecology's decision to close a basin or establish minimum in-stream flows. The counties' duty under the GMA to determine water availability before authorizing new subdivisions or building permits is critical to the protection of water resources throughout the state, and consistent with the unique role assigned to the Department of Ecology under the state water codes.

II. KITTITAS COUNTY'S DEVELOPMENT REGULATIONS MUST ALLOW THE COUNTY TO MAKE ACCURATE WATER AVAILABILITY DETERMINATIONS

The GMA requires counties to regulate water usage in the context of growth management and land use by making individual water availability determinations as part of the building permit and subdivision application processes, and by enacting comprehensive plans and development regulations that protect water resources. Here, the Board properly held that Kittitas County's development regulations must protect water resources by ensuring that the County is able to make accurate water availability determinations.

As discussed above, the GMA requires Kittitas County to determine whether water is available before authorizing new subdivisions or building permits. Under this Court's holding in *Campbell & Gwinn* and the duties imposed by RCW 19.27.097 and RCW 58.17.110, Kittitas

County cannot lawfully approve new subdivision or building permits where an applicant intends to rely on more than one permit-exempt well for a single development. The GMA further requires Kittitas County to enact a comprehensive plan that protects water resources, as well as development regulations that are consistent with and implement the comprehensive plan. RCW 36.70A.070; RCW 36.70A.040(4). If Kittitas County's development regulations allow developers to skirt *Campbell & Gwinn* by filing multiple land division applications for a single development, then they do not allow Kittitas County to determine whether water is available for proposed subdivisions, as required by state law. RCW 58.17.110. The Board properly held that Kittitas County's development regulations must allow the county to make accurate water availability determinations to comply with the GMA.

III. KITTITAS COUNTY'S ARGUMENTS ARE MISPLACED

In their reply to the amicus brief filed by the Department of Ecology, Kittitas County takes several positions that find no support in state water law.

First, Kittitas County takes the position that the County has no authority to make a determination that water is legally available under RCW 58.17.110 and RCW 19.27.097, and instead may only determine whether the proposed water source is potable. *See* Kittitas County

Response to Ecology Amicus at 12-13. This position cannot be squared with the text of the GMA, which explicitly provides that evidence of water availability "may be in the form of a water right permit from the Department of Ecology." RCW 19.27.097. Ecology does not determine potability as part of the water permitting process, *see* RCW 90.03.290, so evidence of a water rights permit would be irrelevant to the question of potability. Given that the Legislature has explicitly stated that a water rights permit *does* offer evidence of "availability," this Court should not read RCW 19.27.097 to make such evidence irrelevant.

Moreover, under Kittitas County's position, *no* entity would be in a position to deny a permit for new development that relies on clearly illegal uses of water. Under Kittitas County's argument, a county would be powerless to stop a building project that planned, for example, to illegally divert all of the flow of a river to satisfy its water needs. Since Ecology does not have permitting authority over local projects, it too would not have authority to deny such a permit. In Kittitas County's view, only a full adjudication by a Superior Court—an undertaking that can take decades to resolve—could address such illegal uses. This cannot be the law.

The County also asserts that property owners may simply drill their own permit-exempt wells, regardless of whether they have public or

community water supply. Kittitas County Response to Ecology Amicus at 6-7. This argument is wrong as a matter of law, and based on an incorrect reading of this Court's holding in *Campbell & Gwinn*. As this Court made clear, permit-exempt wells are exempt only from the permitting requirement and are subject to all other tenets of the water code, including the requirement that new appropriations may not impair senior rights. 146 Wn.2d at 9. Thus, where no water is available for appropriation, property owners may *not* simply drill their own permit-exempt wells because their new appropriation would interfere with senior rights. Likewise, the plain text of RCW 19.27.097 clearly states that counties "may impose conditions on building permits requiring connection to an existing public water system"; in the face of such a requirement, property owners likewise would not be free to drill new permit-exempt wells.

Finally, Kittitas County's assertion that only the Superior Court may determine whether a proposed permit-exempt well is authorized under the water code is based on an incorrect reading of *Rettkowski v. Dep't of Ecology*, 122 Wn.2d 219, 858 P.2d 232 (1993). Kittitas County's Response to Ecology's Amicus at 9-11. In *Rettkowski*, this Court held that only a Superior Court has the authority to determine the priorities of *existing* uses by adjudicating conflicting water right claims. 122 Wash.2d at 228. In contrast, the Court explicitly affirmed Ecology's authority to

determine whether a proposed *new* use conflicts with existing senior uses as part of the permitting process. *Id. Rettkowski* does not in any way limit the authority of Ecology or the obligation of counties to restrict proposed new permit-exempt wells where no water is available for new appropriations.

CONCLUSION

CELP respectfully requests that this Court answer certified question (1) in the negative and find that state law does not preclude the County from regulating water usage.

RESPECTFULLY submitted, this 16th day of September, 2010.

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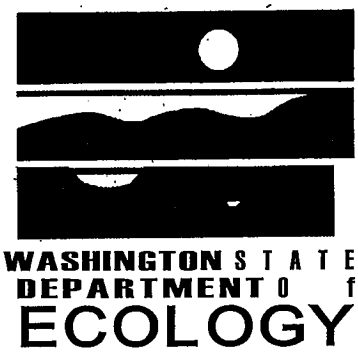
EXHIBIT 1



Guidelines for Determining Water Availability for New Buildings

April 1993
Ecology Publication 93-27 .

printed on recycled paper

GUIDELINES FOR DETERMINING WATER AVAILABILITY FOR NEW BUILDINGS

EXECUTIVE SUMMARY

The following guidelines are intended to assist local governments with the implementation of RCW 19.27.097, the requirement that building permit applicants provide proof of an adequate supply of potable water. The three means of proof specified in the statute are: 1) a water right permit from the Department of Ecology, 2) a letter from an approved purveyor stating the ability and willingness to provide water, and 3) another form (such as the water availability notification suggested here) sufficient to verify the existence of an adequate water supply.

The Departments of Ecology and Health will notify local permitting authorities if they know of potential problems with water sources and supplies. Local governments with concerns about a particular source or type of source may request participation in Ecology's water right permitting process.

Individual water supplies may be considered adequate if they can supply 400 gallons per day of potable water for building use, including limited irrigation. Local authorities are encouraged to adopt aggressive water conservation programs.

Use of water from surface water sources is generally discouraged but, if a surface water source is used, that use must be authorized by a water right permit and the water treated to meet potability criteria. Other conditions may need to be met to ensure the continuing adequacy of the supply for current and future water users.

Ground water from wells provides a more desirable source for individual water supplies. Larger ground water uses must be authorized by a water right permit. New and existing wells should also be tested to ensure that suitable quantities of potable water are available. Based upon test results, treatment and other conditions on use may be merited.

Individuals may obtain water from alternative sources of supply provided that they secure water right permits, when required, and based upon locally developed waivers which provide for the protection of the public health and safety.

Counties may propose areas where individual water systems would be exempted from the provisions of RCW 19.27.097 and the guidelines. Counties interested in pursuing such exemptions should work cooperatively with Ecology and Health to determine if an area qualifies. If agreement cannot be reached, the Department of Community Development may be asked to mediate and, for counties which are not planning under the Growth Management Act (Chapter 36.70A RCW), make a determination.

Public water systems are already regulated by the Department of Health. Local permitting authorities need to verify that expansions of public water systems comply with local comprehensive plans, regulations and ordinances as well as the state water code and the State Board of Health Drinking Water Regulations.

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Washington Utilities and Transportation Commission

Mr. Kim Rogers
Tulalip Indian Tribe

Mr. Ken Rosenberg
Stevens County Public Utility District

Mr. John Thayer
Washington State Board of Health

Mr. Michael T. Vinatieri
Lewis County District Health Department

Ms. Pat Wiles
Harbor Water Company, Inc.

Mr. Dave Williams
Association of Washington Cities

GUIDELINES FOR DETERMINING WATER AVAILABILITY FOR NEW BUILDINGS

April 1993

Section 1. PURPOSE. The purpose of these guidelines is to assist local governments in implementation of the provisions of RCW 19.27.097. Local governments would be best served by developing their own ordinances incorporating those portions of these guidelines which best reflect the circumstances which occur within their jurisdictions.

Section 2. DEFINITIONS. As used in these guidelines:

(1) "Approved water purveyor" means a water purveyor whose public water system is in compliance with the state surface and ground water codes (Chapters 90.03 and 90.44 RCW) and is in substantial compliance with the State Board of Health Drinking Water Regulations as determined by either the Department of Health or the local health authority.

(2) "Ground water" means all waters that exist beneath the land surface or beneath the bed of any stream, lake or reservoir, or any other body of surface water within the boundaries of the state, as defined in RCW 90.44.035.

(3) "Group A public water system" means a system:

(a) With fifteen or more service connections, regardless of the number of people; or

(b) Serving an average of twenty-five or more people per day for sixty days within a calendar year, regardless of the number of service connections. (NOTE: The State Board of Health regulations, Chapter 246-290 WAC, has a more extensive definition.)

(4) "Group B public water system" means a public water system which is not a Group A water system. This would include a water system with fewer than fifteen service connections and serving:

(a) An average of fewer than twenty-five people for sixty or more days within a calendar year; or

(b) Any number of people for fewer than sixty days within a calendar year.

(5) "Ground water under the direct influence of surface water" means ground water which has:

(a) Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as Giardia lamblia, or

(b) Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

(c) For purposes of determining treatment options, the following shall be treated as "ground water under the direct influence of surface water":

(i) All water supply wells or sand points where the minimum sealing requirements of the Water Well Construction Standards (Chapter 173-160 WAC) cannot be met.

(ii) All water supply wells or sand points which were constructed prior to the adoption of the Water Well Construction Standards (Chapter 173-160 WAC) and exhibit any or all of the characteristics identified in subsections (5)(a) and (5)(b) above.

(6) "Individual water supply system" means any water supply system which is not subject to the State Board of Health Drinking Water Regulations, Chapter 246-290 WAC. An individual water supply system generally provides water to one single-family residence or, in the case of family farms, four or fewer connections on the same farm.

(7) "Local permitting authority" means that local agency or department with the responsibility for verifying the adequacy of water supplies prior to the issuance of new building permits.

(8) "Potable" means suitable for drinking.

(9) "Public water system" means any system subject to the State Board of Health Drinking Water Regulations, Chapter 246-290 WAC, excluding a system serving only one single-family residence or a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including:

(a) Any collection, treatment, storage or distribution facilities which are under the control of the purveyor and used primarily in connection with the system, and

(b) Any collection or pretreatment storage facilities which are not under the control of the purveyor but are primarily used in connection with the system.

(10) " Registered water right claim" means a statement of the existence of a water right generally vesting prior to 1917 for surface water and 1945 for ground water. The beneficial use of water must have been initiated prior to 1917 for surface water and 1945 for ground water. Evidence must be shown that there has been no relinquishment (cessation of use for five or more years, per RCW 90.14.140).

(11) "Surface water" means any body of water, whether fresh or marine, flowing or contained in natural or artificial depressions for significant periods of the year, including natural and artificial lakes, ponds, rivers, streams, springs, swamps, marshes and tidal waters.

(12) "Water purveyor means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that owns or operates a public water system. It also means the authorized agents of any such entities.

Section 3. GENERAL CRITERIA. An applicant for a building permit for any building necessitating potable water must provide evidence of an adequate water supply for the intended use of the building, *Unless* the proposed building will receive its water from an individual water supply system which is located within an area exempted under Section 5 of these guidelines.

Evidence of an adequate water supply may be in the form of one of the following:

(1) A water right permit from Ecology. Water right permits are required for all surface water diversions and those ground water withdrawals which are in excess of 5000 gallons per day or where the area of lawn or noncommercial garden to be irrigated is greater than one-half acre. A water right permit establishes the legal availability and right to use water in terms of quantity and priority. Users of 5000 gallons per day or less of ground water are exempted from having to obtain a water right permit by RCW 90.44.050, but are subject to all other pertinent water resources laws and regulations. Applicants alleging rights based upon registered water right claims should be directed to the appropriate regional office of Ecology to verify the existence of the claim and its possible validity. An application for a water right permit is not sufficient proof of an adequate water supply.

(2) A letter from an approved water purveyor stating the ability and willingness to provide water. The purveyor providing such a letter must be in compliance with the state Surface and Ground Water Codes, Chapters 90.03 and 90.44 RCW, and the state public water supply regulations. For Group A public water systems, adequacy criteria are contained in Chapter 246-294 WAC, Drinking Water Operating Permits. Similar criteria should be used for determining the adequacy of Group B public water systems.

(3) A water availability notification filed by the applicant verifying that potable water is available in the amount necessary for the purposes of the building. Such a notification must be accompanied by any supporting documentation required by the local permitting authority. The basic documentation which may be required is described in Section 4 of these guidelines.

(4) Exceptions:

(a) Buildings which do not require potable water are not subject to the provisions of RCW 19.27.097 or these guidelines.

(b) Replacement structures or improvements or additions to buildings which will not result in an increase in the water usage of the building generally need not be subject to the provisions of these guidelines, except local permitting authorities with concerns about the adequacy of existing systems may choose to review all building permit applications.

(5) Ecology regional offices will notify local permitting authorities about areas where water is no longer available for appropriation or areas where Ecology is investigating problems concerning water availability. The local permitting authority must consider this information before proceeding with issuance of additional building permits within such an area.

(6) Regional drinking water operations offices of Health will notify local permitting authorities about areas where the water supplies are of such poor quality than they should not be used for

domestic water supply without treatment. The local permitting authority must consider to this information before proceeding with issuance of additional building permits within such an area.

(7) A local permitting authority with concerns about a water source or type of water source the use of which requires a water right permit may participate in Ecology's water right permitting process. Upon receipt of a written request from the appropriate local legislative body, Ecology will.

(a) Refer applicants for permits proposing to use water from that source or type of source to the appropriate local permitting authority for consultation prior to processing the application.

(b) Provide copies of applications for permits to use water from that source or type of source to the local permitting authority for review and comment prior to making a decision on the application.

Section 4. INDIVIDUAL, WATER SUPPLY SYSTEMS.

(1) A water supply for a building which requires potable water, including some limited irrigation, may be considered to be adequate if it:

(a) Is capable of providing water to a residential dwelling in the amount of 400 gallons per day. If additional uses of the same water source are contemplated, the local permitting authority should determine the amount necessary to satisfy those additional uses at the time of evaluating the adequacy of the supply. Consideration should be given to a program of aggressive water conservation, including effective implementation of the Water Conservation Performance Standards (Uniform Plumbing Code amendments for plumbing fixtures and fittings).

(i) If a source appears to be only marginally adequate, either in terms of quantity yielded or quality of the water, the local permitting authority may wish to attach a note to the property title advising future owners of that fact.

(ii) The local permitting authority may require additional testing at the time of resale of the property to verify the continued adequacy of the water supply.

(b) Meets any and all siting criteria established by state regulations and local ordinances, and is constructed in compliance with state and local regulations.

(c) Does not cause any detrimental interference with existing water rights and is not detrimental to the public interest. Investigation and identification of well interference problems and impairment to senior rights is the responsibility of Ecology. If the possibility of a problem is suspected, the local permitting authority should contact Ecology.

(2) Systems which obtain water from surface water sources.

(a) The use of surface water sources for individual water supplies is generally discouraged due to their potential for contamination. For purposes of determining treatment options, surface water as used in this subsection includes ground water which is under the direct influence of surface water, but does not include springs which have been developed to preclude surface contamination.

(b) Any use of surface water, including water from salt water sources, must be authorized by a water right permit or covered by a valid registered water right claim.

(c) Water from the source should conform to water quality standards contained in the State Board of Health Drinking Water Regulations and, at a minimum, must be tested for bacteriological quality and nitrates.

(d) The water used should be treated using a system designed by a licensed professional, using equipment which meets Department of Health certification for point-of-use/point-of-entry treatment systems and is installed in accordance with the approved design.

(e) An operations and maintenance (O & M) manual for the treatment system may be required by the local health authority for review and approval. A copy of the manual must be provided to the property owner for the treatment system.

(f) A notice should be attached to the property title which states the requirement for a treatment system. This notification should include a recommendation that the water system be inspected and retested any time the property ownership changes. The notice should include

information regarding the potential health risks associated with utilizing surface water as a drinking water source.

(g) The local health authority may require the property owner to contract with a Department of Health-approved Satellite System Management Agency for system operation.

(3) Systems which obtain water from ground water sources.

(a) If the total amount of water to be used from the ground water source is in excess of 5000 gallons per day or the area of lawn or noncommercial garden to be irrigated is greater than one-half acre, the use must be authorized by a water right permit or covered by a pre-1945 water right for which a registered water right claim has been filed.

(b) If the source is a well which does not require a water right permit, i.e. those which use 5000 gallons per day or less or irrigate one-half acre or less of lawn or noncommercial garden, the water availability notification should be accompanied by a water well report (drilling log) and. at a minimum, the results of a one-hour bailer or air lift test indicating the yield of the well.

(i) In many cases, the water well report plus results of a test verifying well yield will provide all the necessary supporting evidence of physical availability of water. However. in areas where other concerns about water availability may exist (e.g. impact on instream flows and senior surface water rights or known well interference), Ecology and/or the local permitting authority may require additional testing to verify the existence of an adequate amount of water.

(ii) The water well report and test indicate *only* the *physical* availability of water. They do not indicate the legal availability of water. Such wells, while exempt from the water right permitting process, are still subject to regulation by the Department of Ecology.

(c) Additional supporting documents which may be required by the local permitting authority include, but are not limited to, the following:

(i) A water quality laboratory analysis report.

(ii) A copy of recorded notification if public disclosure of a problem is required.

(iii) A copy of an operation and maintenance (O & M) manual (if required).

(iv) Copies of any other documents which may be required by the local permitting authority.

(d) The well must be constructed in conformance with the Water Well Construction Standards, Chapter 173-160 WAC.

(e) Water from the source should conform to water quality standards contained in the State Board of Health Drinking Water Regulations and, at a minimum, must be tested for bacteriological quality and nitrates.

(i) A lab certified by Health must perform the analyses.

(ii) If the local health authority suspects that a problem may exist in a specific area, the local health authority may also require testing for trihalomethanes, pesticides, radionuclides, volatile organic chemicals and/or other chemical or physical water quality parameters.

(iii) If the well is newly constructed, prior to sampling it should be properly developed (i.e. flushed for a minimum of one hour or until such time as the water runs clear and all chlorine residuals are undetectable, whichever is longer).

(iv) Water samples should be collected by a "qualified individual" as determined by the local health authority.

(v) Follow-up sampling may be required to provide additional data on the level of a specific contaminant in question. If the local health authority determines that several consecutive follow-up samples indicate that the water supply is in compliance with the maximum contaminant levels, treatment and public notification requirements may be waived.

(f) Continuous effective treatment should be recommended, and may be required, for any water supply which fails to meet bacteriological or primary chemical or physical quality parameters.

(i) Continuous effective treatment may be recommended or required, at local health authority discretion, for any other contaminant found in the water.

(ii) Treatment should generally be whole house rather than point-of-use. Water used in any portion of the system, such as the irrigation system, laundry, or other non-contact plumbing fixtures, which is isolated from the drinking water system does not have to be treated.

(iii) All home treatment equipment should be certified by the Department of Health and must be installed in accordance with the approved design.

(iv) In cases where treatment is recommended, a notice recommending treatment should be attached to the property title. This notification should recommend that the water system be inspected and retested any time the property ownership changes. The notice should include information regarding the potential health or aesthetic effects associated with exceeding the maximum contaminant level.

(4) Alternative sources of supply.

(a) Individuals may obtain water from alternative sources of supply under the following conditions:

(i) Hauling water should be allowed only if the applicant can demonstrate that the proposed system will comply with the water quality and quantity criteria specified in these guidelines.

(ii) Rooftop collection systems should be allowed only if the applicant can demonstrate that the proposed system will comply with the water quality and quantity criteria specified in these guidelines.

(iii) Desalination systems should be allowed only if the applicant either has or obtains a water right permit and can demonstrate that the proposed system will comply with the water quality and quantity criteria specified in these guidelines.

(iv) Other alternative water supply systems should be allowed only if the applicant either has or obtains a water right permit, when required, and can demonstrate that the proposed system will comply with the water quality and quantity criteria specified in these guidelines.

(b) A local health authority wishing to permit the use of alternative systems should develop a process to grant waivers from these guidelines which provides for the protection of the public health and safety.

(i) Supply systems using alternative sources of supply may need to be accompanied by any necessary plans and specifications verifying that the system is capable of providing water for the purposes of the building equivalent in quantity and quality to the criteria specified in these guidelines.

(5) Local permitting authorities may require additional information concerning the adequacy of a water supply, including potability information, beyond that listed above.

Section 5. DETERMINATION OF EXEMPT AREAS. A local government may seek to exempt new building construction in an area from complying with the provisions of RCW 19.27.097(1) through the process outlined below. Such an exemption would apply only to individual water systems. (NOTE: The Department of Ecology intends to adopt this section as an administrative rule. The remainder of the guidelines may be adopted as rules at a later date.)

(1) A local government seeking an exemption should assess the potential of the area for exemption and prepare a proposal to be submitted to the Departments of Ecology and Health for review and comment. The local government should consult informally with both Ecology and Health to minimize the effort needed to prepare such a proposal. The proposal need include no more than the following elements:

(a) A map of the area proposed to be exempted. Such an area should probably be either a watershed or a discrete hydrologic unit.

(b) An inventory of current water rights in the area.

(c) A summary of existing water well report information for the area.

(d) A summary of water quality information for the area.

(e) An examination and discussion of other water uses, apart from domestic supply, in the area.

(f) An assessment of all land uses, including the population and building density, of the area to be proposed.

(g) An evaluation of the zoning and growth potential of the area.
(h) Some form of local review or public hearing process.
(i) A plan for tracking and reporting information about future development in the area.

(2) Ecology and Health will review the proposal and provide copies to other potentially affected parties, such as Indian tribes and fisheries and wildlife agencies. Criteria for review include the following:

(a) The proposal is consistent with any applicable water resources plans developed by either Ecology or Health.
(b) The area has no history of water-related regulatory problems.
(c) Water appears to be available to sustain additional development.
(d) Additional development and water use in the nominated area would not post a significant threat to existing water rights, including instream flows.
(e) Additional development and water use in the nominated area would not significantly harm fish or wildlife habitat.
(f) Additional development and water use in the nominated area would not cause degradation of the present quality of water.
(g) There is no indication that use of the water in any portion of the designated area would pose a health risk to potential users.

(3) Ecology and Health will inform the local government that they:

(a) Agree with the proposal,
(b) Suggest specific changes, or
(c) Cannot accept the proposal.

(4) If the proposal cannot be accepted by Ecology or Health, the local government may pursue mediation with the Department of Community Development If agreement still cannot be reached, local governments which are not planning under RCW 36.70A.040 may request that the Department of Community Development make a final determination.

(5) Areas will only be exempted for a specified period of time. Such an exemption should not be construed to be verification by Ecology and Health that water is available for any individual applications for water right permits or that the water is of suitable quality for drinking. A growth-related trigger mechanism or a specified period for review should be established for any exempted area.

(6) Local governments may carry out a program to monitor impacts on water supply and water quality in exempted areas.

Section 6. PUBLIC WATER SYSTEMS. If the operators of a public water system desire to provide water to one or more new buildings, they should ensure that such an expansion of service is:

(1) Consistent with adopted State Board of Health Drinking Water Regulations.
(2) Consistent with adopted county land use plans, development regulations and ordinances.
(3) Within the scope and conditions of the system's water rights, including authorized place of use, limitations on quantity of water allowed for use, and number of connections authorized to be served. If the system is currently exempt from water right permitting requirements, the operators should determine whether the proposed expansion of service will cause water use to exceed 5000 gallons per day or the area of lawn or noncommercial garden irrigated to exceed one-half acre, thereby requiring a water right permit.
(4) Consistent with Department of Health regulations and procedures, including system design standards.

EXHIBIT 2

Kittitas County, Washington
BOARD OF COUNTY COMMISSIONERS

District One
Paul Jewell

District Two
Alan Crankovich

District Three
Mark McClain

July 20, 2010

Washington State Department of Ecology
Mr. Tom Tebb, Director, Central Regional Office
15 West Yakima Avenue, Suite 200
Yakima, WA 98902

Dear Mr. Tebb:

The Kittitas County Public Health Department has updated its requirements for water availability for the creation of new parcels and issuance of building permits in Upper Kittitas County. These updates are the result of recent discussions between Ecology and the County and subsequent research and discussions with the Kittitas County Prosecutor's Office. We appreciate your participation in those meetings and believe it has assisted us in making sound policy decisions in light of the current issues we are facing.

For land use applications in Upper Kittitas County, we will implement the following policy:

> A finding of water budget neutrality from the Washington State Department of Ecology, or a statement from the applicant that water budget neutrality is not required will be a condition of approval for all subdivision and short plat applications deemed complete after July 16, 2009.

For building permit applications in Upper Kittitas County:

> A finding of water budget neutrality from the Washington State Department of Ecology, or a statement from the applicant that water budget neutrality is not required will be necessary to meet water availability requirements for issuance of a building permit for all applications relying on exempt wells which have not put water to beneficial use prior to July 16, 2009.

Considering the current environment as well as the proposed permanent rule WAC 173-539A, we believe this approach is appropriate in considering the best interests of Kittitas County and landowners. We would like to thank you again for your input and assistance in responding to our request and initial findings as outlined in our letter dated June 14, 2010. We believe that better policy decisions have resulted from that cooperative effort.

We look forward to working with you in finding additional solutions to the ongoing issues related to groundwater withdrawals in Upper Kittitas County and the entire Yakima Basin. We believe, as you have stated, that these solutions need to provide balance and opportunity for the many competing stakeholders who have a vested interest in the outcome and valid concerns related to the community, environment, and economy.

Respectfully,

Mark McClain, Chairman | Paul Jewell, Vice-Chairman | Alan Crankovich, Commissioner

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STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
15 W Yakima Ave, Ste 200 • Yakima, WA 98902-3452 • (509) 575-2490

June 25, 2010

Catherine Bambrick, Administrator
Kittitas County Public Health Department
507 North Nanum Street, Suite 102
Ellensburg, WA 98926

Dear Ms. Bambrick:

Thank you for your June 14, 2010, letter related to making water availability decisions in upper Kittitas County.

While we anticipate discussing our position in more detail when we meet with the Board of County Commissioners in early July, I felt it important to provide our initial reactions within the time frame requested in your letter.

To be frank, I am troubled by both the rationale provided and direction that Kittitas County Public Health wishes to pursue when making water availability determinations on subdivisions of land and new building permits.

As you know, all new unmitigated withdrawals of groundwater in the upper portion of Kittitas County are halted under the current emergency rule, unless projects were issued building permits before July 16, 2009. On June 24, 2010, Ecology announced a permanent rule proposal that largely mirrors the emergency rule.

For more than three years we have sought to find a common platform for managing groundwater in upper Kittitas County. While we may come from different perspectives, I believe we do share many fundamental interests. We want to be certain there is enough water to meet our current and future needs. We want a program that is fair to citizens, protects senior water rights, sustains important fisheries, and allows for new growth and economic development.

More and more water is being made available through the new water banks that are now up and running. We are ironing out the kinks in making water-budget-neutral determinations at Ecology, which will make it easier for developers and homeowners to gain access to a legal and reliable supply of water.

We also believe more information is needed about the relationship between surface water and groundwater in the upper reaches of the basin to help provide a clearer path for making groundwater decisions.

Always looming are the inherent risks in a water-short basin. These risks are real, both in terms of a lack of adequate water supply and the threat of legal actions against new and recently-established water users.

Lending institutions may hesitate to take on added risk by granting mortgages on properties where new unmitigated water uses do not comply with the state's rule and may infringe on the rights of more senior water right holders.

I believe we share the same goal of making sure landowners and those who support landowners such as lending institutions have a secure and legal right to water before development begins.

Indeed, we believe the County has the authority and obligation to consider whether water is both physically and legally available when making building permit decisions in the context of RCW 19.27.097 and RCW 58.17.110.

As we explained in our January 2010 legal brief to the Court of Appeals, we believe current laws applying to Kittitas County make the County responsible for exercising its best judgment and make its best effort to determine whether appropriate legal provisions have been made for water and whether there is an adequate water supply.

As your letter acknowledges, RCW 19.27.097 requires that each applicant for a building permit provide evidence of an adequate water supply for the intended use of the building. Acceptable forms of evidence recognized by the statute include water right permits and "another form sufficient to verify the existence of an adequate water supply." The statute expressly provides that applications for water rights are not sufficient proof of an adequate water supply. The phrase "an application for a water right shall not be sufficient proof of an adequate water supply" indicates the Legislature's intent that a building permit applicant must demonstrate *legal* as well as physical availability of adequate water.

Rules adopted by state agencies have the force of law. In an area where Ecology has adopted a rule prescribing that new groundwater uses cannot occur without mitigation to ensure water-budget-neutrality, a county cannot make the finding of adequate water supply required by this statute when the building permit applicant has not provided evidence that they have a legally supported water supply. If the applicant wants to develop a new water supply in the area covered by the rule, then they must submit a water-budget-neutral finding by Ecology or they cannot meet the requirement to provide "another form sufficient to verify the existence of an adequate water supply."

You reference the *Rettkowksi* case and indicate that you think that decision suggests a county lacks the authority to require proof by the applicant of a legal water supply. Not only would this conclusion require the county to ignore the specific language in RCW 19.27.097 discussed above, it is not supported by any language in the *Rettkowski* decision. In *Rettkowski*, the Supreme Court ruled that Ecology lacked the authority to determine the priorities of competing water rights in a basin or to take enforcement action to address disputes between water right claimants. However, the Court did not say that Ecology or local governments lack the authority to consider in the first instance whether an individual has met an Ecology regulation that precludes the establishment of new water rights absent a water-budget-neutral finding by Ecology. The county's action of examining whether an individual has obtained a water-budget-neutral determination from Ecology in compliance with Ecology's rule would not amount to the county determining water right priorities – which was the subject of the *Rettkowski* case.

In summary on the legal points, we believe state law authorizes and requires the county to examine whether a building permit applicant has a legal right to water as a precondition to acting on the application. Nothing in the *Rettkowski* case changes or modifies this express authority and obligation.

Even setting aside the legal debate over the county's authority, failure to consider Ecology's unambiguous rule regarding water availability is extremely poor public policy, exposes people to regulation and lawsuits, and does a disservice to the citizens of Kittitas County.

Citizens expect county and state government to work harmoniously and provide the best assistance and advice possible in achieving their development goals. The County's actions will place unnecessary additional risk on prospective property developers, home builders and homeowners when that development is dependent on new groundwater appropriations. Further, it creates confusion and an atmosphere of conflicting state and local requirements that simply does not serve the public.

Should the County proceed as described in your letter, you can expect that Ecology will continue to provide information to the public regarding our view of the County's obligations and the risks that individuals are assuming if they proceed to develop new water supplies that do not comply with Ecology's rule. Beyond that, we will consider all available legal avenues available to us so that we can ensure only development of new water supplies that are secure.

In closing, we continue to believe the best course of action for the County and the State is to exercise our respective authorities to assist applicants for new developments in obtaining secure water rights.

Sincerely,

G. Thomas Tebb, L.Hg. L.E.G.
Central Regional Director

GT:cmr (100603)

cc: The Honorable Alan Crankovich, Kittitas County Board of Commissioners
The Honorable Paul Jewell, Kittitas County Board of Commissioners
The Honorable Mark McClain, Kittitas County Board of Commissioners