



SKAGIT COUNTY BOARD OF COMMISSIONERS

RON WESEN, First District
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April 17, 2012

Ted Sturdevant, Director
State of Washington Department of Ecology
PO Box 47600
Olympia, WA 98504-7600

Director Sturdevant,

We write to express grave concerns about the 2006 Skagit Instream Flow Rule's exempt well provisions as a viable concept for resolving regional conflict and meeting rural landowners' water needs.

In 2001, the State adopted a Skagit Instream Flow Rule that failed to provide water for rural landowners. In 2006, the State amended the Skagit Instream Flow Rule, affording very small water allocations for each basin, with the promise of imported mitigation water to meet rural landowners' water needs. Cautiously hopeful the State's plan would end a decade of acrimony over water, Skagit County withdrew its appeal of the Skagit Instream Flow Rule.

Since its adoption, the 2006 Rule has been the subject of 11 different legal challenges, creating significant acrimony in the community, and, as a practical matter, precluding promised mitigation from occurring. A local tribe, joined by eight other tribes and an environmental group, is presently challenging the validity of the 2006 Rule, and has threatened to assert treaty rights if unsuccessful. And the recent experience surrounding the closure of the Carpenter-Fisher Basin and Senate Bill 6312 leaves very little room for optimism about future basin closures.

Skagit County owns no water rights, and does not regulate water. While state law requires us to verify that building permit applicants have a legal right

to use the State's water, the determination of what constitutes a lawful water right is solely the State's statutory duty and obligation.

Skagit County is a government of general jurisdiction, with the obligation to equally and impartially represent all citizens of the county, both urban and rural alike, focusing limited resources on basic governmental functions. Skagit County has neither the obligation nor right to negotiate the property interests of rural landowners, who clearly stand to lose significant land value as a result of the ongoing effort to reduce reliance on exempt wells.

Skagit County will continue to attend meetings of the Skagit River Flow Management Committee, as envisioned by the 1996 Memorandum of Agreement. But in an effort to secure a lasting, stable outcome in the Skagit Basin, it is our suggestion that any future discussions under the rubric of the 1996 Memorandum of Agreement ought to include a representative of the rural landowners economically impacted by the discussion. Within these parameters, we look forward to working in cooperation with all our partners to resolve this two-decade long dispute.

Respectfully,

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Kenneth A. Dahlstedt, Chairman



Sharon D. Dillon, Commissioner



Ron Wesen, Commissioner

cc: Governor Christine Gregoire
Center for Environmental Law and Policy
Northwest Indian Fisheries Commission
Swinomish Tribal Council
The Hon. Rob McKenna