



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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RECEIVED

December 11, 2009

DEC 14 2009

SKAGIT COUNTY
PUBLIC WORKS ADMIN

Mr. Gary Stoyka
Skagit County Public Works Department
1800 Continental Place
Mount Vernon, WA 98273

Mr. Tom Rowe
Snohomish County Planning and Development Services
3000 Rockefeller Avenue
Everett, WA 98201

Mr. Kevin Plemel
Snohomish Health District
3020 Rucker Avenue
Everett, WA 98201

Re: Implementation of Skagit Instream Flow Rule Reservation Provisions: Possible Closure of the Carpenter/Fisher Sub-basin Management Unit

Dear Messrs. Stoyka, Rowe, and Plemel:

The purpose of this letter is to inform you that the Carpenter-Fisher Creek Sub-basin groundwater reservation, established in the 2006 Skagit Instream Flow Rule amendments, appears to be at or close to full allocation. The Department of Ecology (Ecology) is completing a review of recent data, and closure of the sub-basin may be necessary in the near future.

The Department of Ecology adopted the Skagit Instream Flow Rule (the Rule) on April 14, 2001, and it is codified at Chapter 173-503 WAC. Minimum instream flow levels for the Skagit River were established under the Rule for the purpose of preserving fish habitat and protecting instream resources. Under the Rule, water rights (including permit-exempt withdrawals) that are junior to the Skagit Instream Flow Rule¹ are required to curtail their use when stream flows in the Skagit River fall below established minimum levels.

In 2006, Ecology amended the Rule creating water reservations that are an exception to the Rule's closures and instream flow minimum limits. Specifically, water reservations or "budgets" were

¹ Those withdrawals established after April 14, 2001, the effective date of the Skagit Instream Flow Rule.



established for each Skagit River tributary and mainstem segment, designated by Ecology as sub-basin management units (hereinafter, "sub-basins"). Under the reservation system, new withdrawals using the water reservation are debited from the sub-basin water budget.

The Carpenter/Fisher sub-basin has an area of approximately 27.7 square miles and is located in the southwestern part of the Skagit River basin, south of the City of Mount Vernon and east of Interstate-5 (map enclosed). The basin primarily is located in Skagit County with a small portion (approximately 3.6 square miles) extending into Snohomish County. The reservation established for the Carpenter-Fisher sub-basin is 11,633 gallons per day, which is enough water for approximately 66 new homes (utilizing septic systems) using the initial residential use and septic return flow rates provided in the Rule, dating from April 14, 2001 adoption of the Rule.

Current information indicates that the reservation established for the Carpenter/Fisher sub-basin may be quite close to full allocation. The Rule requires that fully allocated sub-basins must be closed to new unmitigated water uses.

Ecology strongly recommends against making any decisions as to whether water is available under the Carpenter/Fisher sub-basin reservation for purposes of issuing a building permit or land subdivision until Ecology completes its updated estimate of the quantity of water remaining under the Carpenter/Fisher reservation. Following this recommendation will ensure that property owners do not proceed with costly plans or expenditures, only to find that they cannot access new water.

This letter does not represent an official closure notice. A formal closure notification, if warranted, will be issued following a final accounting of reservation water uses for 2008 or a subsequent reservation accounting period. Closure announcement will include written notification to the impacted counties and a public notice published in local newspapers.

We understand that Skagit County is working to find alternative water supplies for the Carpenter/Fisher sub-basin. Ecology is currently considering a mitigation plan submitted by Skagit County titled "Mitigation Plan for Eligible Groundwater Withdrawals in the Carpenter/Fisher Creek Sub-basin, Water Resource Inventory Area 3 – Lower Skagit". Ecology plans on making a final decision on this mitigation plan in the near future. However, even if Ecology were to approve this mitigation plan as currently drafted, we have reason to believe that the reservation is very close to being fully allocated.

Going forward, Ecology will continue to work with the counties to obtain information on debits from the reservation through the end of 2008 and will share a draft of the 2008 Skagit Reservation Accounting Report with the Skagit River Basin Water Resources Advisory Committee and Skagit River Flow Management Committee when it has been prepared. After determining the amount of the reservation remaining as of the end of 2008, Ecology will work with the counties to obtain information on the number of additional debits from the reservation that have occurred in 2009 for the Carpenter/Fisher sub-basin. Ecology also plans on sharing this information with the Washington State Department of Health and the well drilling community to make them aware of the situation. Additionally, updated information can be accessed on Ecology's Skagit River Management Rule website: <http://www.ecy.wa.gov/programs/wr/instream-flows/skagitbasin.html>.

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If Ecology determines that the Carpenter/Fisher water reservation is fully allocated, Ecology will close the Carpenter/Fisher sub-basin to new un-mitigated appropriations, including permit exempt wells. Once closed, water may be available only under the provisions of WAC 173-503-060, 173-503-081, 173-503-100, and 173-503-110.

We appreciate your cooperation in implementing the Skagit Instream Flow Rule. If you have any questions before the end of the year, feel free to contact me using the information below. If you need assistance in the New Year, please contact Jacque Klug at (425) 649-7270 or Jacque.Klug@ecy.wa.gov

Sincerely,



Andrew B. Dunn
Section Manager
Water Resources Program
(425) 649-7270
Andy.Dunn@ecy.wa.gov

Enclosures (1): Map showing extent of Carpenter/Fisher sub-basin

ad/mc

cc: Ken Slattery
 Jeannie Summerhays