



**Central Washington
Home Builders Association**

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August 13, 2009

Kittitas County Board of Commissioners
Honorable Alan Crankovich, Chairman
205 West 5th Avenue, Suite 108
Ellensburg, WA 98926

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KITTITAS COUNTY BOARD OF COMMISSIONERS
Brent
Cathy B.
Kirk
PH file

Re: 'Partnership' Rule, Chapter 173-539A WAC.

Dear Chairman Crankovich:

The Central Washington Home Builders Association represents 714 member companies with approximately 10,000 employees throughout Central Washington. Approximately 1/4 of our member companies are located in Kittitas County. We appreciate the opportunity to comment upon the proposed 'Partnership' Rule that will affect many of our members.

WAC 173-539A-010

We find it concerning that the proposed rule states a presumption of hydrologic connectivity and then puts the onus on applicants to show a 'lack of hydraulic connection'. The ability to prove a negative is questionable. Also, it is contrary to the usual application of water right law that requires the demonstration of connectivity and subsequent impairment. We also believe the imposition of the groundwater moratorium by the Department of Ecology renders moot the assertion in paragraph (2) of 'minimizing adverse effects on the local economy'.

WAC 173-539A-030

'Common ownership' as defined creates considerable collateral concerns not dealing directly with water withdrawal. We see the conflict arising in two distinct areas:

- a) Service Providers. The range of activities described significantly impair the ability of service providers to meet the needs of potential customers because the definition creates the concern that the mere act of using the same company used by another 'proximate' party constitutes 'common ownership' for purposes of the rule. For instance, does use of the same engineering design company or road construction company by two 'proximate' parties constitute 'common ownership'? We suggest that the last sentence of page 4 be modified to say, '**Joint activity and cooperation that is customary or required by land use of other legal requirements, or utilization of the**

same service provider, do not themselves constitute a joint development agreement. We also suggest that 'coordinated development' should be 'coordinated **water system** development'.

- b) Coordinated Maintenance Activities. We believe that the GMA envisions coordinated planning for both pre-and post-development. It hardly makes sense for any development not to coordinate with and complement existing facilities and services. Yet the language in this definition is sufficiently broad to bring such activities into 'common ownership'. Another example might be the provision in Road Easement documents that provide for shared maintenance of the easement road. The language is sufficiently broad in the definition that a common easement road itself might constitute 'common ownership'. We think this could be addressed by explicitly stating at the first what concern the 'common ownership' definition is intended to address.

'Group Use' should contain language that makes clear that the 5 year interval referred to is not related to the 5 year 'use it or lose it' provisions from the Department of Ecology in the application of water rights.

WAC 173-539A-050

Paragraph (2) requires that an applicant file a 'sworn statement' with the Department of Ecology and Kittitas County. What is the legal nature of the document and what is the administering agency? In paragraph (2) (c) is the Department of Ecology or Kittitas County the approving authority for the application?

WAC 173-539A-055

Paragraph (3) creates some confusion that should be clarified. If the permit exempt well and the distribution system were established on or before March 28, 2002, but not all the associated lots were developed in that interval, does the build out of the undeveloped lot(s) require that the entire system now be limited to the provisions in paragraph (1)?

We appreciate your consideration of our comments.

Sincerely,



David K. Whitwill
Coordinator, Kittitas Government Affairs
Central Washington Homebuilders Association