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Board of Commissioners
Kittitas County Courthouse
205 W. 5th Avenue
Suite 108
Ellensburg, WA 98941

RE: DOE Groundwater Moratorium

Thank you for the opportunity to provide these comments which are due by August 18, 2009, by 5:00 p.m.

This moratorium is a Constitutional takings of my property rights. As a life-long resident and property owner in upper Kittitas County, I absolutely oppose the moratorium that the Washington Department of Ecology (DOE) has placed on new ground water wells. My home is served by an exempt well and I now have other property that cannot be developed because of the moratorium.

While DOE maintains that restrictions on exempt wells are being imposed to protect senior water rights, there has been no empirical evidence put forward that ground water withdrawals in upper Kittitas County are adversely impacting senior water right holders of surface water rights. The fact is, those senior right holders will always get their water. It's the junior right holders that will be impaired, not the senior right holders. No evidence has been presented from the USGS study being conducted in the lower portion of the county to demonstrate why exempt wells in the lower portion of the county do not have similar assumed adverse impacts to senior water rights holders.

If this is an issue, then it is a statewide issue. There are other counties in the Yakima River Basin that should be handed a moratorium.

I'm sure that the creation of the water storage reservoirs in upper Kittitas County have a positive impact on water availability but there has been no discussion or evidence showing how these reservoirs have changed conditions since the 1945 Ground Water Code was enacted. It's my understanding from talking with some of the older generation that the ground water exemption was created as mitigation for creation of the reservoirs. How is the existing water storage in upper Kittias County being factored into this water scare?

DOE has not taken other fundamental measures to reduce possible impacts to senior surface water rights and has not put adequate resources, policies or enforcement measures in place to properly conserve and manage water resources in sectors other than domestic well use.

Some or all of the \$3.2 million (estimated cost of the rule) would be better spent on true water conservation measures. For example, there are so many obvious wasteful irrigation practices

occurring in the basin. Why isn't DOE forcing irrigators or even subsidizing them to use the most efficient irrigation methods, especially since irrigators hold a large majority of senior water rights in the Basin and are the primary water users. Irrigators should be required to take more responsibility for wise use of water resources.

Limiting domestic residential use of ground water withdrawals should be a measure of last resort and implemented only when empirical evidence supports the conclusion that senior water rights are in fact being impaired. Instead, this moratorium is being unilaterally imposed based on major assumptions, namely that every exempt well is withdrawing at least 5,000 gpd and such use is impairing surface water flows. The fact is, DOE appears to have absolutely no clue about how much water there is, how much is needed, how much is being used and what impacts what. It's a blind power grab by DOE.

DOE states that one reason for the proposed rule is that "permit exempt wells are not measured, therefore impacts are unknown." The hydrogeologic study should be completed first or at least true well use data should be gathered prior to imposing the rule. No data has been presented as to how much groundwater use is too much in terms of creating impacts to surface water rights, not just use in Upper Kittitas County, but in the Yakima Basin. DOE states in its cost analysis that it believes 3,000 new residences will seek an exemption. That would equate to 15,000,000 gpd in new residential groundwater use over the projected 20-year period. What is DOE really trying to establish with this moratorium if it has no basis for really knowing when or at what point total groundwater withdrawals will or will not impact aquifers?

Yes, the Attorney General's opinion will define rights and responsibilities. But in the meantime, DOE is holding tight to the moratorium. If the AGO states that some or all of DOE's actions are illegal, what recourse will property owners have for damage already done?

The water banking concept is yet another power grab by DOE and another way of controlling development. Let's face it: if Suncadia's water rights are the only ones available, then Suncadia gets to dictate land use decisions for the county. This is a huge mistake.

For these and so many other reasons, DOE needs to step back, remove the moratorium and let the county make its own land use decisions. The moratorium is clearly unsupported by the science and has nothing to do with water. DOE is outside their jurisdiction and can now take responsibility for the economic demise of individuals and businesses in Kittitas County.

Thank you for the opportunity to comment.

Sincerely,



Douglas W. Weis

Cc: Jay Manning, DOE
Tom Tebb, DOE
Rob McKenna, Attorney General