

**KITTITAS COUNTY BOARD OF COMMISSIONERS
SPECIAL MEETING
UPPER KITTITAS COUNTY DISTRICT COURT
700 E. 1ST STREET - CLE ELUM, WASHINGTON**

TUESDAY

6:30 P.M.

AUGUST 18, 2009

Board members present: Chairman Alan Crankovich; Vice-Chairman Paul Jewell; Commissioner Mark McClain.

Others: Julie Kjorsvik, Clerk of the Board; Greg Zempel, Prosecutor; Kirk Holmes, Public Works Director/Interim Community Development Services Director; Cathy Bambrick, Public Health Administrator; Mark Schuppe, Department of Ecology; Brent Bottoms, Deputy Prosecutor and approximately 80 members of the public.

PUBLIC HEARING DEPARTMENT OF ECOLOGY - MOA COMMISSIONERS

At approximately 6:30 p.m. **CHAIRMAN CRANKOVICH** opened a public hearing continued from August 13, 2009, to consider amendments to the Department of Ecology's Memorandum of Agreement and a Proposed Partnership Rule. He indicated that the written record had closed at 5:00 p.m. and that oral testimony is open to those who did not already give testimony on August 13, 2009.

BRENT BOTTOMS, DEPUTY PROSECUTOR explained how under the current moratorium, administrative aspects are being handled by DOE and in the proposed partnership rule, the County would be willing to take on administrative aspects in exchange for some development to occur. He indicated that DOE is currently not willing to sign the Agreement with the County's proposed changes.

MARK SCHUPPE, REPRESENTING THE DEPARTMENT OF ECOLOGY, indicated that DOE is still interested in trying to come to an agreement, but there are differences needing to be resolved between DOE and the County.

THOSE PRESENT & TESTIFYING: LARRY GUNTHER, STEVENS COUNTY COMMISSIONER felt DOE had overstepped and failed to show due diligence. He said it was their responsibility to work with the County to try and resolve issues and not to create more. He felt they were at an impasse with DOE, and they are very concerned with their actions. He indicated their water groups had performed two studies which turned out very similar, and DOE did not accept their results, in fact they came back with their own

numbers. He said it was time to draw a line, take a stand because water must be a local decision and managed properly. He said that Kittitas County has Steven's County full support in pursuing matters. **JAMES BOYLE** speaking for himself and his family said while his water use is rationed, there are others out there who are using it without any monitoring. He said if it were up to him, the moratorium would be in place until the water study has been completed. **SCOTT SIMMONS, PROPERTY RIGHTS CONSULTANT** said he fully supported the County and their position and explained how landowners within the moratorium can segregate down to 5 acre parcels with no notification to the County according to RCW 58.17.040(2), if there is no regulation in place. He said the issue has already been decided two times by a Superior Court. **DIANE JANUSZKIEWCZ, REPRESENTING ROSLYN CITY COUNCIL** said they are support of an Agreement with the Department of Ecology. **JOE PECK** said he had worked for the Roslyn City Water Department and explained how ground water and surface water is connected in the Yakima Water Basin. He said any property without a well or surface use on the property, has no water rights under Washington Water Law and that DOE has the duty to protect senior water rights. **MIKE ROBINSON REPRESENTING ROBINSON DRILLING** believes there is no information justifying a moratorium. He was not opposed to a study, but was against placing a moratorium without any justified evidence. He said after last week's meeting when DOE was asked of 3,000 wells drilled, how many of those were in Upper County, they did not know the answer, which he felt shows it is strictly political, and not based on ground water and senior water right holders. **MARK RICH, REALTOR** questioned 6 wells that are located up stream in Cle Elum and wondered if permits were issued; was there a transfer or public hearing held; who owns the land and wells; and if the wells were being metered? He encouraged DOE to lift the moratorium immediately and if not, they would be prepared to do a class action suit. **KATHLEEN MASTERSON** said she has a senior water right and wondered how long Roza Irrigation District has been complaining they are not getting enough water, because she has leased water to them in the past and this year when they were asked, she was told they were not interested because they had plenty of water. She questioned who signed the petition and asked why no one is going up the Teanaway, because there are swimming pools and pumps there in many places. **STATE REPRESENTATIVE BILL HINKLE** said that although DOE has the authority to protect senior water right holders, he felt they have exercised poor judgment in issuing the moratorium. He felt the exempt well statute has been abused in the past, and that water storage should be looked at. He said DOE has now been

charged to do that by the Legislature, and he hopes they follow through with it. He asked where they want to be in the next 5-10 years; are they still over appropriating water and how that problem was going to be solved. He said when looking at the Mitigation Rule in return flows, be sure and look at the science. He said the Legislators are looking at various Bills and offered to help in any way they can. **SENATOR BOB MORTON** offered his support and thanked the County for taking their stand, as well as for the opportunity to come and testify at the public hearing. **JOE MENTOR, ATTORNEY FOR SUNCADIA WATER RIGHTS** encouraged the Board to sign the proposed Agreement with DOE, even though they do not approve of the moratorium. He said the County is the agency that has a regulatory role in use of exempt wells. He described priorities in which water rights are property rights. He felt the Yakima Basin has been over appropriated since the early 1900's by the Bureau of Reclamation. He said they are currently working with DOE on mitigations and did not believe they were the only ones. He encouraged the Board to continue to work with the DOE to resolve issues. He felt the statute is very outdated and although there was good work being done on the trust water statute. **MARK STEVENSON** suggested including meters and conducting a study of what is being used and well drillers should be included. He did not think the entire City of Roslyn feels the same as what's been represented by them, and they do not have a problem purchasing another water right when needed. He indicated that DOE keeps sending them to Suncadia. **CRAIG WALLACE** encourage the Board to not make any hasty decisions. He said everyone knows water needs to be managed, and he would like to see if DOE's decision was made on the fact of paper or survey because he did not believe a survey was ever conducted. He questioned of 3,000 wells drilled, how many were full time residents, and believed it was a very important question for the Upper County to have addressed. **THERE BEING NO OTHERS REQUESTING TO TESTIFY THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

COMMISSIONER McCLAIN explained how it was a difficult situation because DOE will not sign Agreement until the AG's opinion comes out. **MR. SCHUPE** indicated he was not authorized to sign a Memorandum of Agreement at the public hearing. **CHAIRMAN CRANKOVICH** suggested the County's legal staff contact DOE's attorneys. **MR. BOTTOMS** said they are still anticipating an answer to the AG's opinion in mid-September.

COMMISSIONER JEWELL moved to continue the Public Hearing to Wednesday August 26, 2009, noting the record is closed.

COMMISSIONER McCLAIN seconded. Motion carried 3-0. The Board indicated they would like their legal counsel to continue to be engaged with representatives from DOE.

Meeting adjourned at 7:45 p.m.

**KITTITAS COUNTY BOARD OF COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**

CLERK OF THE BOARD

Julie Kjorsvik

Alan Crankovich, Chairman