

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
WEDNESDAY, MARCH 17, 2004**

8:30 a.m. – 9:30 a.m.

Consideration for Signature – Skagit Basin Water Supply Memorandum of Agreement and Petition to Amend the Skagit Instream Flow Rule

The Skagit County Board of Commissioners met in regular session on Wednesday, March 17, 2004 with Commissioners Ted W. Anderson, Don Munks, and Kenneth A. Dahlstedt present.

**SKAGIT BASIN WATER SUPPLY MEMORANDUM OF AGREEMENT AND PETITION TO AMEND THE SKAGIT INSTREAM FLOW RULE.**

Commissioner Anderson opened the meeting for consideration of a Skagit Basin Water Supply Memorandum of Agreement and a Petition to amend the Skagit Instream Flow Rule.

Joe Mentor Jr., acting Special Deputy Prosecutor for Skagit County, outlined the proposals being presented and provided background information. The resolution will approve an Interlocal Agreement for limited groundwater development in the Skagit River Basin, and direct the Prosecuting Attorney's Office to file a petition with the Department of Ecology (DOE) to amend the Skagit Instream Flow Rule to allow for groundwater development consistent with the agreement, and to reserve 200 cubic feet of water per second (cfs) from the Skagit River to allow for future needs in the Skagit Basin.

The Interlocal Agreement has been negotiated over the last 18 months by the parties in a 1996 Memorandum of Agreement dealing with the same subject. Those parties are Skagit County, Upper Skagit Tribe, DOE, City of Anacortes, Skagit PUD, Swinomish Tribal Community, and Sauk-Suiattle Indian Tribe. The County has been working with the Upper Skagit Tribe to complete this draft agreement to allow groundwater development that would otherwise be prohibited by the Instream Flow Rule. It is dependant upon an agreement by the Department of Ecology and the Skagit PUD, which has not yet occurred. It would commit the County to issue new building permits based on exempt well use, only if an applicant was not able to receive water service from the Skagit PUD or from another water purveyor at reasonable cost or in a timely manner. The agreement would commit the Skagit PUD and the City of Anacortes, if they participate, to set aside some of their existing water rights for future use in the Skagit Basin. It would establish water budgets for future usage in 21 Skagit River tributaries with critical salmon habitats.

The petition consists of two parts: 1) to require the DOE to amend the Instream Flow Rule to allow groundwater development; and 2) to petition the DOE to serve 200 cfs for future use.

Commissioner Dahlstedt stated that the DOE has made promises that 830 cfs would be available. This request would honor their promises. He expressed concerns that the Memorandum of Understanding being presented today is consistent with discussions with all parties over the last 18 months.

Mr. Mentor stated that there are provisions that were not agreed upon and he is still hopeful that the other parties will come to agreement. He added that the basic changes made since December have to do with how the flows are counted and the established tributaries. The tributary budgets are credited with return flows from irrigation and consumptive uses.

Public Works Director Chal Martin stated that the Skagit is working with Upper Skagit to find the limits of small basins ending at the flood plain of the Skagit River.

Mr. Mentor said that groundwater development within the flood plain would not affect tributary flows.

Commissioner Munks said that this is the culmination of a project that started in January 2002. He added that the County has bargained in good faith, and all they are asking is for DOE to put back in the

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Instream Flow Rule to allow the County to issue building permits and allow for agricultural use. A study was done by Anacortes and Skagit PUD that indicated that 200 cfs of water is available. In the fall of 2003 the Swinomish and Sauk-Suiattle Tribes came up with additional clauses and an additional 60 tributaries.

Commissioner Anderson verified that this document is referring to 800 gallons per day. Mr. Mentor confirmed.

Commissioner Anderson stated that this document is a first step. If the County can get in accord with the Upper Skagit and DOE will move forward then at least we will have an official document with which to work. He knows that he will be highly unpopular due to the placing of meters on wells and the interruptible flows, and it is not with ease that he signs this document.

Commissioner Munks said that the County as given up a lot of rights to create this agreement, including the metering of new wells. He added that DOE created the problem by changing the language.

Commissioner Dahlstedt commented on the targeted 800 gallon use per day. The average use per home is 250 gallons per day. He stated that the parties that have water and sell water such as the City of Anacortes and Skagit PUD have not been supportive.

Commissioner Munks moved and Commissioner Dahlstedt seconded the motion to sign and support the Skagit Basin Water Supply Memorandum of Agreement. The motion carried unanimously. **(Contract No. C20040140)**

Commissioner Munks moved approval of a Resolution approving an Interlocal Agreement allowing for limited groundwater development in the Skagit River Basin and providing for appropriate mitigation, and authorizing a petition to be filed on behalf of Skagit County, to amend Chapter 173-503 WAC, Instream Resource Protection Program – Lower and Upper Skagit Water Resources Inventory Area (WRIA 3 and 4). Commissioner Dahlstedt seconded the motion, which carried unanimously. **(Resolution No. R20040090)**. Commissioner Dahlstedt said he wanted to make sure that when the amendment is done the 200cfs promised in the original agreement will be available to citizens. Mr. Mentor said that it would if DOE supports this issue.

Commissioner Anderson thanked Mr. Mentor and Chal Martin for their efforts on this issue. Mr. Martin recognized the leadership of the Upper Skagit Tribe who looked internally to see what they could give up.

County Administrator Gary Rowe commented that this is not the end of the process. He said that he wants to continue the dialogue with DOE and the other parties in the original 1996 agreement.

**ADJOURNMENT.**

Commissioner Munks made a motion to adjourn the proceedings. Commissioner Dahlstedt seconded the motion, which passed unanimously.

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**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

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Ted W. Anderson, Chairman

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Don Munks, Commissioner

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Kenneth A. Dahlstedt, Commissioner

ATTEST:

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Shirley Knapp, Acting Clerk of the Board  
Skagit County Board of Commissioners