

JEFFERSON COUNTY PLANNING COMMISSION

MINUTES FOR AUGUST 31, 2005

- A. OPENING BUSINESS
- B. DISCUSSION ON WATERSHED & GROWTH MANAGEMENT PLANNING (incl WRIA 17
IN-STREAM FLOW RULE)
- C. ADJOURNMENT

A. OPENING BUSINESS

The special meeting was called to order at the Tri Area Community Center at 6:30 p.m. by Chair Jim Hagen. Planning Commission members present were Phil Flynn, Dennis Schultz, Bud Schindler, Peter Downey, Mike Whittaker, and Bill Miller. Allen Panasuk and Edel Sokol were excused.

DCD staff present was Josh Peters, Kyle Alm, and Cheryl Halvorson, secretary. Other county staff present were County Commissioner David Sullivan; Jim Pearson of Public Works; and Craig Schrader, Tami Pokorny, and Mike McNickle of Environmental Health.

State agency representatives were Phil Wiatrak, Kathleen Ensenat, and Brad Caldwell from Department of Ecology (DOE) and Douglas Peters from Department of Community, Trade, and Economic Development (DCTED).

There were about sixty members of the public present. Those who signed the guest list were Ron Melheim, Carol Wise, Kelly Hays, Shirley Sandoz, Ralph Rush, Moe Rogers, Paul Heinzinger, Vince Zodarco, Nancy Dorgan, Gene Y. Briggs, Joyce Johnson, Louis J. Hoffer, Anne McLaughlin, Dennis Holman, E. Joe Lovato, Pat Seavoy, Tom Seavoy, Nadine Hild, Richard Hild, Norman MacLeod, Maryann Ross, Terri Jeffreys, Jeanne Donaghy, Greg Fay, Vi Koenig, Steve Hamm, Barney Burke of the Leader, Dennis and Carl Burk, John Pitts, S. Laksami Narayan, Scott Cassill, Judi Stewart, Neil Stewart, Sharon Hall, John C. Hall, John English, Donna English, Chuck Russell, Ray Marker, Andy Brastad, Susan Porto, Bill Bahlburg, Mike Ewing, Roger Short, Dana Roberts, Bill Graham, and Kevin Widell.

The minutes for August 17, 2005, were approved as amended as noted by the secretary.

Jim Hagen thanked Josh Peters for making the logistical arrangements for this special meeting. He also thanked the state agency representatives for their attendance.

There were no staff updates offered.

The Chair invited general public comments.

An audience member asked if there were other copies of the DOE handout available. Phil Wiatrak stated that they had brought thirty copies of the handout. He stated that the entire WRIA 17 plan was available on the DOE website.

An audience member asked about the authorship of the WRIA 17 plan. Phil Wiatrak stated that it was a group effort of the planning unit members. A brief summary of the membership was provided with the explanation that a consultant wrote the technical document for the planning unit members.

B. DISCUSSION ON WATERSHED & GROWTH MANAGEMENT PLANNING (incl WRIA 17 IN-STREAM FLOW RULE)

Jim Hagen explained the purpose of the workshop, stating that many of the Planning Commission's and public's questions would be addressed during the presentations. He pointed out some of the sub-topics on the agenda. He stated that the main purpose of the workshop was to inform the public. Mr.

Hagen introduced Phil Wiatrak, Kathleen Ensenat, and Brad Caldwell of DOE who would begin the presentations.

Phil Wiatrak provided a PowerPoint slide presentation on the WRIA 17 planning effort. He displayed a map of the WRIA 17 unit area, stating that it was defined by drainages. Therefore, part of the unit was in Jefferson County and part was in Clallam County. The planning was authorized by ESHB 2514, the Watershed Planning Act. He described the purposes contained in the legislation. He then summarized the legislative finding in the act.

Mike Whittaker asked if the findings were in a priority sequence. Phil Wiatrak replied that it was listed in the order within the legislation. He suggested the county ask their legislators about the priority.

Phil Wiatrak provided information on the members of the planning unit, all local entities, including local governments, the PUD, the tribes, and citizen interest groups.

Phil Wiatrak provided a brief history of watershed planning for the unit. The unit had four years from the time planning began to complete the technical work. He stated that the BOCC adopted the Watershed Plan in January 2005.

Dennis Schultz asked what, exactly, was adopted. He stated that it was not the final document that contained all the rules, because we did not have them then. Phil Wiatrak replied that he was correct. He stated that it was a good question and he would get to it.

Phil Wiatrak pointed out a key plan recommendation relating to in-stream flows. He stated that the direction was to continue working collaboratively with the planning unit to reach a consensus on a recommendation for in-stream flows. He stated that it was part of the recommendations adopted by the planning unit in October, 2003.

A question was asked about whether there was any representation for the general citizenry on the planning unit. Phil Wiatrak replied that there was not, as such. The membership represented interest groups and governments.

Jim Hagen referred to the Watershed Planning Act where it talked about protecting in-stream flows and providing for the economic wellbeing of the state citizenry. Then it talked about what was actually required in a watershed plan. It said the plans were required to address water quantity by undertaking an assessment of water supply and use. An optional element was in-stream flows. He asked at what point the decision was made to include the optional element of in-stream flows into the plan. Phil Wiatrak responded that there were three optional elements: habitat, in-stream flows, and water quality. He stated that the planning unit agreed to accept responsibility for all of the elements, so money went along with it.

Dana Roberts, PUD #1 commissioner, stated that, at the time, he was representing Wild Olympic Salmon on the planning unit. He stated that they felt that if they did not make an effort to set in-stream flows, we would have to live with whatever DOE gave us. He thought it was fair to say that the planning unit's consensus was that it was better to do the best they could, so they would have an arguing tool, in case they became uneasy with what DOE wanted to set. They thought that by taking up that option, they would have had information collected to support their views.

Jim Hagen asked if there was a requirement in the act that said you must set specific in-stream flow minimums. Phil Wiatrak replied that there was not; it was in a different statute. That statute was RCW 90.54. Peter Downey commented that statute required DOE to set the in-stream flows. Mr. Wiatrak responded that the Watershed Planning Act said that if the planning unit wanted to participate with DOE in setting in-stream flows, DOE was obligated to work with the planning unit to do that. However, it had to be done within the time constraint of the 4-year period.

An audience member asked if the farmers were represented in the planning unit. Phil Wiatrak replied that the Grange participated in the early portion of the meetings. An audience member asked if there had been outreach done to get participation from the agriculture community. Mr. Wiatrak responded that he came into the process later and could not answer the question. Bill Graham, PUD #1, stated that the Conservation District participated. He stated that they had made efforts at outreach to the farming community, but mostly due to meeting scheduling conflicts, no members of the agriculture community participated. Roger Short stated that he had been aware of the planning unit work but had been so "fed up" that he had not participated.

An audience member asked about the timing of the planning unit process and the 4-year limitation. Phil Wiatrak responded that the 4-year horizon ended in October 2003. The audience member asked about the in-stream flow process. Mr. Wiatrak replied that it was a totally different process. He stated that was where the "divorce" occurred. He stated that one part of the act said that, if approval of in-stream flows did not occur within the planning period (the 4-year window), then DOE may proceed under a different statute. It would no longer be part of the plan itself. That different statute required DOE for go forward with rule making for in-stream flows as a separate effort.

Phil Wiatrak described the additional monies for additional technical work and a facilitator to try to achieve consensus on some of the sensitive issues for a 1-year period. He stated that, while Clallam County and the Jamestown S'Klallam tribe chose not to participate in the WRIA 17 planning unit process, DOE had to involve them in the rule making process for in-stream flows because they were within the watershed.

Phil Wiatrak described the next steps in watershed planning, not relating to in-stream flows. He stated that there was Phase 4 implementation grants totaling up to \$400,000 over the next five years available to the planning unit. The intent of that was to plan for strategies to provide sufficient water for all uses, including in-stream flows. He stated that after the rule was adopted and the planning unit agreed to move forward with implementing the plan, they could also consider using some of that implementation money to address all the issues that came up relating to in-stream flows (the lack of data, administration of the rule, etc.). So, in effect, there was a "divorce", but they could "re-marry" if they chose.

Jim Hagen asked how much of that grant money WRIA 17 had actually received and how it had been used. Phil Wiatrak replied that none of the Phase 4 grants had been made yet. They had yet to agree on a scope of work. He stated that the focus of their efforts had been on the in-stream flow issue. They had decided to go on hiatus from the watershed plan itself until after the rule making process for in-stream flows was done. Mr. Hagen stated that, even before the in-stream flows issue was addressed, they were eligible for up to almost \$500,000. He stated that we were already past Phase 3. He

stated that his question was how much money this planning unit had received. Mr. Wiatrak replied that the total was about \$720,000. He stated that about \$100,000 went to water quality issues dealing with seawater intrusion and another large chunk went to a USGS study on a characterization of the watershed. Mr. Hagen asked how much money went locally and how much went to studies like the USGS. Mr. Wiatrak replied that most of the money went to the local unit. An audience member stated that there was a lot of study done locally with the grant money. In answer to an audience member's question, Mr. Wiatrak stated that most of the money came from state appropriations (taxes).

An audience member asked about how much was spent on water quality, apparently about \$100,000. Phil Wiatrak replied that it went to a water quality monitoring program at the local level. The audience member asked how much data we got for the money. Mr. Wiatrak replied that he thought we got a lot of data. Brad Caldwell stated that one of the things they found out was that they did not have enough data. Mr. Wiatrak stated that they found that they still needed a lot of data. The audience member asked how much we would get for \$400,000. Mr. Wiatrak replied that it would not be much.

Kathleen Ensenat stated that the big question always was why we were doing watershed planning. She stated that the 4-year watershed planning process actually ended in 2003, but DOE did not proceed with rule making then. Instead, DOE continued to work with the planning unit for about another year. She stated that the rule making process took about two years. She stated that DOE began the rule making process in about March 2004, and expected to complete the process in February 2006.

Kathleen Ensenat stated that we were in what was called the Puget Sound Evolutionary Significant Unit. That meant that we had a lot of Endangered Species Act (ESA) issues in this area and a lot of low flow issues. She stated that there were a lot of water rights in the area. She stated that DOE had gone through a big process for years under various state laws - the water codes and water rights. She stated that water rights that were certificated, if they were all fully put to use, exceeded the available water.

Chuck Russell asked for clarification about the Evolutionary Significant Unit. Kathleen Ensenat responded that it related to the federal Endanger Species Act. It was an area that had been identified where they focused efforts because there were ESA listed species. An audience member asked which species were listed. Brad Caldwell replied that there were Summer Chum, Chinook, and bull trout listed. An audience member asked where people could find the complete listing. Peter Downey replied that the state Fish and Wildlife Department website would have a list. It was pointed out that the watershed plan technical report contained a list as well.

An audience member asked if they could provide an example of another part of the state having similar situations with ESA listings and what they were doing. Kathleen Ensenat replied that there were 62 WRIA's [watersheds] in the state and not all of them were within an Evolutionary Significant Unit. She stated that they were all required to consider the same things, however. She stated that there was a rule adopted for the Entiat basin and another just adopted for the Stillaguamish. She stated that some adopted plans or rules were currently under litigation. Ms. Ensenat stated that each of the watersheds had uniquenesses as well, so you could not do the rules in a "cookie cutter" manner.

An audience member stated that the Skagit consequences were a building permit moratorium. That was part of the litigation. The audience member asked that the bottom line question was whether there would be an effect on private wells. She asked how or if DOE or the county would work with the property owners if they could not use their property as it was zoned because they would not have access to potable water. What she wanted to know was how it had affected other places and, if they did not know, what their best guess was. Kathleen Ensenat responded that she would answer that question by describing the rule making process as it related to this area. She stated that any kind of new rule must include a Small Business Economic Impact Statement and a cost-benefit analysis. She stated that their economists would have to do that and they would have to consider exactly what the audience member was asking. She stated that it was not available yet. She stated that the next date in the rule making process was October 9. At that time, the Small Business Economic Impact Statement, the cost-benefit analysis, and the SEPA analysis would be done. Jim Hagen stated that there was also a representative from DCTED present who would address some of the land use issues. An audience member stated that the agricultural community would be interested to know that their businesses would be addressed in the Small Business Economic analysis. Ms. Ensenat replied that it would be included, stating that everything was looked at.

Kathleen Ensenat stated that existing water rights would not be affected by the rule because they could not take away a water right. Bill Graham, PUD #1, stated that included existing private wells, which were exempt wells.

Dennis Schultz asked if water right applications that had been placed before WRIA 17 would be affected by the in-stream flow rule. He asked if they would still have seniority under the act because it took so long to process water right applications. He stated that the basis of water law was priority, date of application. Brad Caldwell replied that the answer was "Yes and No". He stated that if an application had been in for many years, it retained that priority date relative to other water rights and their dates. However, when DOE acted on a water right, they used the information available as of the date of action. So, they would be using the in-stream flows to make decisions on those water right applications. If they decided to grant the water right, the applicant would still have the priority date of submission. Mr. Caldwell explained that DOE did not have "grandfathering in" like you had with land use permit applications. Kathleen Ensenat stated that there were cases where Fish and Wildlife had issued a Surface Water Source Limitation. In those cases, a basin was essentially closed and water rights would not be issued. Therefore, even if there was an in-stream flow set, water rights would not be issued anyway in those areas.

An audience member asked about the effect of the draft regulation which set a priority date of June 12, 2000, even though the in-stream flow would not be set until February, 2006. Kathleen Ensenat responded that the in-stream flow rule would have the 2000 priority date. The audience member stated that the state would be getting a priority date for taking a water right that they did not have yet as there was no application in yet; the state would essentially backdate their application to 2000. Ms. Ensenat stated that the date of the application remained the same. Phil Wiatrak stated that the date came from the statute. The audience member asked if it was true that a private citizen who applied for a water right after June 12, 2000, who could apply for 1/12th of an acre of water, could be "shafted" because of the June 2000, date. Mr. Wiatrak replied that his understanding of the water right law was that they

considered a 4-part test; it was not the in-stream flow rule only. He described the 4-part test. The audience member stated that by setting a date of June, 2000, DOE was setting a priority date for any water right applications that came after that date. Ms. Ensenat replied that was correct.

Dennis Schultz stated that even if a water right was applied for before the in-stream flow rule, the rule could take it all. He stated that it basically violated the basic rule of water rights as far as priority was concerned. Brad Caldwell stated that, while he did not work for that part of DOE, part of the problem with the backup on water right applications was because in-stream flows had not been set. And in-stream flow must be set by rule. So DOE could not act on the water right applications until there was an in-stream flow rule from which they could make a decision.

Kathleen Ensenat stated that they realized water right applications were backed up for ten to twelve years, and part of the reason was because no in-stream flows were set by rule. She stated that they could only apologize for that. She stated that any water right application must meet the 4-part test. If there was not an in-stream flow already established, they went to the fisheries biologists and asked. That was part of what the water right process did. She did not think they had stopped processing water right applications and asking the biologists; it was just a matter of the backlog. She stated that the focus had changed to processing transfers because they were quicker to process, rather than working on new water right applications. Brad Caldwell stated that was part of the backlog problem. Another part was that, if an in-stream flow was set, and you were going to apply that flow to a lot of water right applications, DOE was required to adopt a rule to announce to the public that it was going to treat all applications in that given area the same. He stated that the legislature passed a law stating that DOE needed to pass more rules.

An audience member stated that he had a private well that was drilled in 1936 that had been used continuously. He asked what happened to his water right if that well went dry. Brad Caldwell replied that he would be allowed to drill a replacement well. Kyle Alm asked if that would be counted against the reserve. Mr. Caldwell replied that it would not; it would be on an existing water right.

Kyle Alm asked if an exempt well was the same as a water right in the sense they were talking about. Kathleen Ensenat responded that it was not permitted; it was exempt from permitting, but it was still a water right. Peter Downey stated that most of the people in the room would have exempt wells. Brad Caldwell stated that people who had exempt wells would have a priority date of when they started using it and that would not be affected by any of this. Ms. Ensenat stated that it would be from the date you put the well to beneficial use. Mr. Alm stated that exempt wells would still be put to the test if a senior water user came forward and said the newer well was affecting their water right.

An audience member asked, if you had to drill a replacement well, if that well came from the reserve. Kathleen Ensenat replied that it would not come from the reserve because it was an existing water right. However, they would look for any kind of seawater intrusion, etc., and other conditions.

A question was asked about the amount of water that could be taken from an exempt well. Dennis Schultz responded by reading a portion of the proposed

rule that indicated up to 5,000 gallons per day could be withdrawn for domestic use, stock watering, watering lawn, commercial gardening of less than one-half acre in size, etc.

Kathleen Ensenat displayed a map of the Reservation Management Areas and the Designated Groundwater Areas. This area had different concerns because of issues with seawater intrusion and overdraft of the groundwater resource. So this area was unique in that respect from other WRIAs.

An audience member stated that there was a significant part of East Jefferson County that was National Forest, National Park, or DNR forest that had significant miles of streams and could not be developed. He stated that fact should be accounted for in the planning. He stated that the rest of the East County was a very small area. Kathleen Ensenat stated that was a land use planning issue.

Kathleen Ensenat stated that the thought behind setting up the Reservation Management Areas was to avoid the alternative of not allowing further development. She stated that when you had an area like the Quilcene-Snow watershed that was already exhibiting low flows and where there were endangered species that must be protected, Fish and Wildlife would want to close the basin and allow no further withdrawals, because there was no further water to allocate. One choice was to totally close the entire watershed and have no further development. That was not acceptable. So they came up with the idea of setting aside a small amount of groundwater and a reserve that could be accessed for domestic use only. That would allow exempt wells in the rural areas for development where no municipal water supply was available. She stated that, obviously, if municipal water was available, people should hook up to that and not drill a well. They determined to set aside a limited amount of water for only domestic use in the rural areas. It would be for indoor, human domestic use only, for residential and business use. She stated that they found that indoor use was not the biggest issue; it was the outdoor use where the biggest impacts were. That was where the 1/12th of an acre came from. She explained how they arrived at the 1/12th of an acre figure, which came from a small Group B well system. Jim Hagen stated that those densities would never occur in this county in our rural areas. He stated that we had 5-acre zoning in this county.

Bill Graham, PUD #1, asked why there was no reservation set aside for agriculture and livestock when it was set aside in the rules for the Entiat and Stillaguamish areas. Kathleen Ensenat replied that, in this particular watershed, there was no excess water available. She stated that their choice was to close it all the way down, which was not a choice for DOE. She stated that DOE had two mandates. They had to protect the fish and they had to provide potable water for people. In order to do both, they needed to set the in-stream flows to protect the resource, but they also needed to set aside a reserve of water. They could use the overriding consideration of public interest to do that, but they could not use that for agriculture.

Dennis Schultz stated that the future of agriculture in this county was in small, intense agriculture that would not use a lot of water. He stated that a lot of agriculture used drip irrigation. He stated that the 1/12th of an acre was unrealistic because it assumed all people watered equally. He stated that it would wipe out small agriculture in this county altogether, which was a substantial future economic base in this county. The second comment related to the 1945 Groundwater Act. He asked if DOE was revising it

from 5,000 gallons per day. He asked how you could do that. Kathleen Ensenat stated that they could do it because the basin would be closed to surface water otherwise. Once you closed the surface water, then any groundwater connected to it would also be affected. Mr. Schultz stated that DOE was leaving itself open for a class action lawsuit. An audience member stated that there was already a lawsuit in the Stillaguamish rule and there would be another one in Jefferson County when the rule was adopted here. He suggested that DOE wait to see what happened with the current lawsuit before shoving something down our throats and having another lawsuit. He asked why they did not wait, instead of proceeding and costing the taxpayers a lot of money in lawsuits. Phil Wiatrak replied that they were mandated by the legislature to do it. The audience member asked how we could stop the process on this rule. Mr. Schultz asked whether the county would have to adopt an ordinance implementing the in-stream flow rule, and if the county did not do so, whether the rule would have any effect. Ms. Ensenat indicated that it would still be a rule and the county was not required to adopt it.

Kathleen Ensenat stated that they were required to adopt in-stream flows. She stated that the public would have an opportunity to comment on the proposed rule; that was the way for the public to be involved. There would be another open house, two public hearings, and written comments taken. DOE had to take all of those comments into consideration before they could adopt a rule.

The audience raised an issue with the outreach that had been done for the planning unit. Dennis Schultz asked how DOE would advertise the public hearings on the proposed rule. It was pointed out that there had been two open houses on the plan that had not been very well attended by the public, mostly by members of the planning unit and staff only. Bill Graham, PUD #1, stated that they did try to get the message out to the public. Phil Wiatrak stated that they took out a one-half page ad in the paper for their open houses. The audience members indicated that they had not seen or heard about the WRIA 17 planning process. The message to the DOE representatives was that they needed to do a better job of public outreach.

An audience member stated that the draft regulation proposed control of the groundwater to prevent seawater from coming to the surface. He asked what percentage of the watershed resource went directly to saltwater without ever coming to the surface and why they were having their access to that taken away because they had said the watershed was closed. Kathleen Ensenat responded that she had said surface water was closed and the groundwater reservation areas were limited. She stated that we had not yet discussed the Designated Groundwater Areas. Dennis Schultz stated that even within those closed surface water areas, there was groundwater that was affected by saltwater. He asked if DOE had delineated those areas. Ms. Ensenat stated that she did not know that because there was not sufficient data available. The audience member stated that they wanted DOE to withdraw their rule making because they did not have adequate data.

An audience member stated that what DOE proposed affected peoples' lives. He stated that using terms of art had no meaning to people. That was why the outreach had failed to reach people. He offered the opinion that there was something wrong with the functioning of the agency. DOE was spending a lot of money doing nothing. Another audience member stated that the threat was that if we did not do it a certain way, the state would just shut it [water] off. Kathleen Ensenat stated that she had said that one of the options was to close a watershed, but it was not an option they wanted to pursue. She

stated that they were trying to go beyond that and say that, while what was proposed may be painful, it was better than closing it down altogether.

An audience member asked about the number of gallons of water that went to the City of Port Townsend and the paper mill each day that was discharged into the bay. The audience member suggested recycling that water back to the watershed rather than losing it. Kathleen Ensenat stated that was an innovative idea. Dana Roberts, PUD #1 commissioner, stated that there was no one present to represent the city. He stated that the PUD had approached the city more than once about working with them to try to reclaim some of their discharge water and put it back into aquifer recharge. He stated that the capture area for the city's system was in the National Forest. Their permit for that capture area was taking a long time to go through. They were not in a position to discuss that yet until they had the permit in hand. He noted that the PUD had no responsibility for the city's system, but he wanted to provide the limited knowledge he had. He stated that, while the PUD was disappointed, they did not want to interfere with the city's efforts to get their permit.

Kathleen Ensenat reiterated that they could not affect existing water rights with this rule.

An audience member stated that the state law could be changed by the legislature at any time. They could change the law concerning the in-stream flow rule. Phil Wiatrak agreed that the legislature could do anything it wanted. They were elected to do that [make laws]. They were the ones that passed the water laws. They were the ones that created permit exempt wells. They were the ones that created the statute requiring DOE to set in-stream flows. An audience member asked what DOE was doing about commenting to the legislature about the problems DOE was encountering because of the uniqueness of the different areas.

Jim Hagen stated that an issue he had was why there had been no representation from the Planning Commission or the county planning staff in the planning unit effort. He stated that it was an issue that impacted land use planning in this county. He stated that the Planning Commission had been completely kept out of the loop. Phil Wiatrak stated that the initiating governments (the county, city, tribes, PUD, etc) were the ones who were responsible for organizing the planning unit. He respectfully suggested that question be asked of the initiating governments. Mr. Hagen responded that it was a point well taken.

An audience member stated that he had a private well and a stream on his property. He stated that the only reason he knew this meeting existed was because someone sent him an e-mail. He stated that, as a citizen of this state, he wanted to know why he was not sent a letter about the WRIA 17 process. Kathleen Ensenat stated that if he were using the well water, the proposed rule would have no effect. The audience member asked what would happen if he wanted to use water from the stream. Ms. Ensenat replied that he would have to apply for a water right. The audience member stated that this process would affect his ability to do that. Ms. Ensenat agreed. He questioned why he was not told by his government that rules were being created that would affect his future ability to use part of the property he bought. Ms. Ensenat responded that it came back to the outreach and she would take that message back to Olympia.

Josh Peters explained the origin of this meeting. He stated that the Planning Commission had become very interested in the issue and, in fact, held a workshop where county staff that had been involved in watershed planning made a presentation. Then he and the Chair had discussed having DOE and DCTED staff come to a Planning Commission meeting to further discuss watershed planning. He stated that this was not a formal meeting. He stated that, once a draft rule was formally proposed, there would be a formal procedure to follow in order to adopt a rule into the WAC. He stated there would be plenty of time for the public to make formal comments. He stated that DOE would do whatever they were required to do to get the word out. He stated that the feedback they were getting was that DOE needed to do a better job of announcing that process. He explained how staff tried to get the word out about this meeting, including a news release. He stated that, apparently, the e-mail chain worked well. He pointed out that this was a special meeting of the Planning Commission, outside of its regular meeting schedule. He stated that we knew DOE would be coming forward with a rule making process, and we wanted to get the issue before the public as early as possible. As mentioned before, the WRIA 17 process started awhile back. He stated that it was a happenstance of our county structure that watershed planning fell into the Department of Health. He stated that DCD staff had some interaction with Health staff, although in retrospect, there possibly should have been more. They were trying to get more involved now as it got into the rule-making phase. He stated that there were two different parts. One was the larger plan that our BOCC had adopted, which did not contain anything on in-stream flows. He stated that the in-stream flow rule was a state function; it was a rule making process through DOE. He suggested that DOE staff still had some presentation to make. He suggested that we let them get the information about the rule out and then hold an exchange period. He stated that there would be another chance to make comments during the formal comment period on the rule making process.

Chuck Russell stated that people would not look at a half page ad in the paper if it only talked about technical things. If the ad said that DOE was going to put a water meter on peoples' wells, then they would get a response. This suggestion lead to a discussion about metering individual wells. Kathleen Ensenat stated that was not planned. Some members of the public disagreed, stating that it was in the proposed rule. The proposed rule said that DOE "may require" metering on private, individual wells if DOE found that it needed more data. Ms. Ensenat stated that the language was already in water law. She stated that they were not requiring meters at this time.

Peter Downey stated that we did not have a water problem 100% of the time. When we had drought conditions, then it really caused stream flow problems. He asked if DOE had looked at voluntary conservation, which was an alternative method of managing water. He thought that may be a more effective way of approaching the issue. Kathleen Ensenat responded that she did not know that the fisheries biologists would agree that we did not have a problem throughout the area.

Kathleen Ensenat displayed a map depicting various kinds of water rights and wells, stating that there were many wells in some areas, particularly along shorelines.

Kathleen Ensenat displayed a slide on the Chimacum basin certificated water rights and claims. The data came from the Water Rights Application Tracking System. She stated that there was almost 5 cfs (cubic feet per second) in surface water rights and about 10 cfs in groundwater rights, but there was

only 3 cfs in the creek during a June measurement. Bill Graham, PUD #1, stated that Ms. Ensenat was equating the groundwater to the surface water. Ms. Ensenat stated that if you just looked at the surface water rights, it was more than Chimacum Creek could produce, if they took all of the water rights. Mr. Graham asked if DOE knew that all of those surface water rights were being used at one particular time. Ms. Ensenat replied that they did not have that data. Mr. Graham stated that DOE did not know conclusively that Chimacum Creek was over-allocated. He stated that had always been his point. Mr. Graham stated that we did not know if the people who had those surface water rights were using them at all. Ms. Ensenat stated that it was just an example of data. It showed that, based upon the amount of known surface water rights, if everyone exercised their water right during a low flow period, there was a potential to dry up that stream. Dennis Schultz stated that they were basing their data on maximum usage 24 hours a day, 7 days a week as withdrawal from the basin. He stated that was ridiculous because no one irrigated like that. Ms. Ensenat stated that even if they were off by 2 cfs, it would still dry up the creek on a 3 cfs day. Mr. Graham stated that DOE was saying that the basin was over-allocated. He stated that DOE was saying it was over-allocated everywhere. That was why they decided that there could be no livestock watering or agricultural use. Ms. Ensenat stated that they did not have all of the data. Mr. Graham stated that, right now, the Big Quil had a groundwater reservation of 200,000 gallons per day. That sounded like water available. Peter Downey stated that there were no water conservation measures going on right now. He stated that there was nothing to prevent people from doing it right now. He stated that there was water in the stream. So clearly, the problem with the data was that it was based on absolutes. Ms. Ensenat stated that she would not say that. She stated that it was something for people to talk about. Mr. Downey stated that, right now, the stream should be dry because it was over-allocated. Ms. Ensenat clarified that there was the potential.

Jim Hagen stated that the law was based on the potential. He thought the real question was allocation versus actual use. Actual use was what should be measured. Kathleen Ensenat agreed, stating that they needed more data, as had always been the case. Mr. Hagen stated that what the Planning Commission had heard from the people was, if DOE needed more data, why DOE was rushing through a rule. Ms. Ensenat responded that, while they had lots of data, they could always use more. She stated that she was not onboard when the watershed plan was developed, but they obviously thought the Chimacum basin was a concern, because they did a USGS study, among others. So it was not just DOE that thought the Chimacum basin was an area of concern; the planning unit thought it was an area of concern too.

An audience member asked what they could do to stop this rule. He stated that he had lived in the Quilcene area for 25 years. They had a creek, Leland Creek, on their property that dried up in 2002. It was just a stone's throw away from the Little Quilcene River. He stated that he saw that river once a week. He stated that the Little Quil fluctuated throughout the year. He stated that he walked the Big Quilcene once a month. He stated that the snow pack was what we depended on. He stated that he did not think the audience criticizing DOE was wrong. What he thought people were doing was taking individual positions and we were not thinking about the natural resources. He stated that we rarely thought of water as a natural resource, but it was. He stated that our population had doubled in the last 30 to 35 years. He stated that people on Leland Valley Road started hauling water in about July each year because their water wells were going dry. He stated that we were buying water for more than the cost of gasoline. He thought we

needed to find a solution that included conservation. It was as important, if not more important, than other methods. He stated that water was a finite resource; it did not expand itself. He stated that the University of Washington said that in the next 15 to 20 years, the Cascades would be in big trouble with snow pack and the Olympic Mountains would be worse. He stated that this was not a problem we could walk away from. He stated that he did not agree with how DOE had approached the issue. He thought what we needed to do was postpone this fixed date to a period of time when everyone could get onboard. He thought that if we were here in a "pissing contest", he did not think we would find a resolution that was beneficial to everyone. He thought we needed to walk the rivers and creeks at different times of the year. He stated that you would find creeks running dry in this community. He thought it was something we needed to talk about. He thanked the Planning Commission for setting up this meeting. He urged the Planning Commission to take the initiative to continue this dialog and not spend money on "phony baloney" ads, but to get people together in one room to look at the crisis we were facing. He stated that it would not go away. He stated that there would be more people living in Jefferson County in the next 15 to 20 years and there would be less water from our snow packs. He stated that he did not want to go to a situation where we were paying lawyers for lawsuits; that was a waste of time and money. He thought the community could take the initiative through the direction of the BOCC and the Planning Commission to try to find reasonable solutions to the problem. He stated that we would not make everyone happy. But we could at least get to a place where we were not wasting money on lawsuits because that did not help anyone.

An audience member asked why DOE had not considered water storage methods in these basins. Kathleen Ensenat stated that was something that could be on the table. She stated that DOE saw such measures, including conservation, as temporary measures. The audience member stated that we may not have a lot of snow pack in the mountains, but we got a lot of rain. Yet we were not talking about capturing that resource. He stated that it had been his impression that the reason we did not have any surface water storage facilities around here was because we could not dam up the streams to create them because there were too many restrictions.

Dana Roberts, PUD #1 commissioner, stated that the PUD had made an offer on property for a storage facility. It would be a natural storage area. It looked like a positive opportunity. It would allow them to spill some water into Chimacum Creek during dry periods. He stated that they had not received a response from the property owner yet.

An audience member stated that this county was capable of taking care of itself; we did not need the state telling us how to do it. He stated that we were capable of conservation, of creating reservoirs, etc. We did not need something that would be injurious to the economy of the county. He stated that we did not need this rule. He suggested that the DOE representatives take that message back to their bosses and the legislators.

County Commissioner David Sullivan stated that a lot of good suggestions about what could be done were in the watershed plan the BOCC adopted. He thought there were 43 recommendations that would need funding to acquire the resources for studies, etc. It entailed a lot of good work. He stated that, for the Planning Commission that wondered about the WRIA 17 process, the commission had experienced a WRIA 17 meeting tonight. He stated that all the issues the Planning Commission had heard tonight had been brought forward and discussed at the planning unit. He stated that within the framework of the

law, within the realities of funding, and within the lack of data we had, we had reached the limitations of what the WRIA 17 planning unit had come to in many ways. He stated that he wished there was a really good answer on how to write this rule, but the reality was that the planning unit itself had failed to reach consensus. DOE had continued on, trying to do their best, with continuing to get input from everyone to write this rule. He thought the most encouraging thing he had heard tonight was that DOE sometimes withdrew a rule. He stated that it was prudent to move this forward at this point in time, because DOE had their "marching orders" and he thought they were preceding the best they could. He agreed that the legislature needed to be told. He stated that the county had this issue as part of its agenda for lobbying with the state association of counties to try to get it on the list for lobbying in the next legislative session. In the meantime, he stated that people could get on the list with the county DCD and could follow progress on the issue on the county website. He stated that he heard the message about getting the word out better.

Jim Hagen asked if the in-stream flow rule could be written in such a way that it would be understandable to the general citizenry. He stated that he had a hard time understanding the proposed rule and had to read it several times in order to glean the real meaning of the rule. The question was how it could be translated so that it was clear how it would affect peoples' lives and how it would affect growth in the county in general. Kathleen Ensenat stated that was something she would take back to Olympia.

Kathleen Ensenat stated that DOE was legislatively mandated to go forth and set in-stream flows. Based on those flows, a determination had been made that all surface waters were closed to future appropriation. She stated that the Big Quilcene and Chimacum basins had periods where water could be stored, because there was a determination that there was excess water during the winter season. So there were provisions in the rule for such possibilities.

Kathleen Ensenat explained that when you close a basin, it is closed to all surface and groundwater extraction. However, you had to allow some provision for public use through access to the reserve allotment. People could drill a well but it would be limited to 350 gallons per day [gpd]. Then the Designated Groundwater Areas were treated a little differently. They were treated similarly to the reserve areas but there was a withdrawal limit on them. Now there was not a withdrawal limit. What they had decided to do with those areas, because they were areas where they were concerned about seawater intrusion, was to designate them through a public process to protect them. Therefore, they could apply conditions on the well permits, including a limitation of 350 gpd. There would be provisions to allow a proponent to have a hydro-geologist prove there was not continuity. Then they (DOE and F&WL) wanted to gather more data. She stated that they actually had removed the withdrawal limit on some of that, because it was not based upon scientific data, like the reserve areas were based upon scientific data. What that meant to people was that they could still drill a well for domestic use.

Phil Flynn asked about Marrowstone Island and the effect of the rule on that area. Kathleen Ensenat stated that DOE had closed Marrowstone except on a case by case basis because of the seawater intrusion issue. She described the things they would consider for a well permit on Marrowstone. Bill Graham stated that the issue would be whether the new well would infringe on someone else's right and whether it would cause additional seawater intrusion.

Jim Hagen asked if water could be transferred from one management area to another. Kathleen Ensenat replied that it could. Bill Graham stated that the PUD #1 had a water system plan for its service area. They had an approved plan to serve Marrowstone Island. He stated that the in-stream flow rule would not impair their ability to serve Marrowstone. He stated that, right now, they planned to expand the usage and capacity of the Sparling Well. Dana Roberts stated that all of the data they had was that expanding the Sparling Well was the worst place to take additional water, in terms of effect on fish, of all the options the PUD had. He did not know what reports Fish and Wildlife had made to DOE on the expansion of the Sparling Well. He stated that the initial evidence of using the Sparling Well, as opposed to the Four Corners Well, appeared to be that any prospect of continuity with saltwater was alleviated so that it would not affect the freshwater load or flow. He stated that he would look to the fish biologists and hydro-geologists for an explanation of why they should not be able to do it that way.

Dana Roberts referred to the last PowerPoint slide where it addressed ability to prove non-hydraulic continuity. He stated that it bothered his sense of equity, although he appreciated the recognition that DOE did not have the data to give them confidence behind a lot of the draft rule. He stated that DOE had assumed that many of the sub-basins (stream valleys), that any water withdrawn, would be in hydraulic continuity with the stream. However, DOE had not made the hydro-geologic studies to prove it. Yet, anyone who wanted to drill a well had to prove that they were not in hydraulic continuity. He stated that DOE had judged that everywhere in the sub-basin was in continuity. He stated that DOE could be right. But he thought it made economic sense to do one study for the basin to find out, rather than requiring individuals to hire hydro-geologists. He stated that he did not want to ignore the circumstances of many people in this county who did not have a lot of money. Kathleen Ensenat stated that she should have added to her statement that the hydro-geologic study would be necessary if the proponent wanted to go beyond the 350 gpd. Mr. Roberts stated that it was still true that DOE was making the assumption that all wells within a basin were in continuity without having the studies to prove it. He stated that, elsewhere in the proposed rule, there were references to best available science or best scientific procedures. He stated that he would just ask that DOE would set for itself, on behalf of the public at large, the same standards DOE expected from the public in the rule. Ms. Ensenat stated that they had enough studies done to show that any impairment was impairment. Mr. Roberts stated that was not true if DOE closed the basin without scientific proof of continuity. He stated that he was uneasy when the approach was that it was all in continuity and DOE expected the citizens to fund the kind of data studies that DOE should be doing to support the regulations. He stated that he was speaking as a tax paying citizen who had to pay the lawyers to defend DOE in lawsuits when DOE did not have the data. Ms. Ensenat stated that the point was that people could still drill a well and use the 350 gpd. Until they had better data, they had to be conservative.

An audience member asked where the 350 gpd came from. Kathleen Ensenat replied that it was an accounting tool based upon information from the Department of Health on the average daily use for a household.

Norm MacLeod agreed with the Quilcene man. He was also glad to see that his question about the water rights issue had been raised. He stated that a careful read of the preliminary draft rule showed that DOE had made the presumption of full hydraulic continuity between all surface and all

groundwater within a watershed. He found the same language in other WRIAs. On the county website, Exhibit 17 on the WRIA 17 page was a map, "Relative Hydraulic Continuity Potential". He noticed that a minority of the streams on the map in the watershed was rated as high or medium high. A majority of the streams were rated either medium or low potential for hydraulic continuity to groundwater. He asked where DOE came up with the presumption of full hydraulic continuity between all surface and all ground water to support the regulations for each of the WRIAs. Bill Graham stated that was the new, better data that said it was not in 100% continuity. He stated that, therefore, we should be getting a better break. Kathleen Ensenat stated that we were getting a break in the sense that we were getting 50% septic returns. Some audience members scoffed at her remark. She admitted that she was not a hydro-geologist, so she really could not address the issue.

Norm MacLeod stated that the map was a result of their work [hydro-geologists]. He stated that subsequent data indicated that there was not full hydraulic continuity. He stated that best available science was mandated in this state. He stated that the Exhibit 17 map was better science than what DOE used to make their presumption in the draft rule. He understood that DOE was still modifying the rule. He stated that, based upon what he had seen in the process in WRIA 17, he did not believe the DOE had a body of science you could term "best available science" upon which to base a valid regulatory process. He did not think the state should be proceeding with rule making in any of the WRIAs until such time that the state had the science to make a valid regulation.

Kathleen Ensenat stated that they would take that comment back to Olympia. Phil Wiatrak agreed with a lot of what Mr. MacLeod said. He stated the belief that there was not anyone present who did not recognize that we could use more science. He thought that most people present would say that we needed better science. He had heard a proposal that we should wait to do a rule until we had better information. He stated that we could not wait for perfect information. At some point, we had to start managing the resource. That was what they were dealing with in Olympia. He stated that one of the concerns expressed was who to talk to about this. He thought that was a valid question and concern. He stated that they were staff and could take messages back to the decision makers. He stated that one of the things DOE was absolutely committed to was getting input from the public. He stated that Ken Slattery was the program manager for the water resources program. He stated that it was in their best interests as an organization to get the public's comments today versus after the rule was filed. Off the record, he stated that his observation from his experience was that it was better to go higher in the organization and let it trickle down to staff's level. He stated that Jay Manning was the director of DOE. An audience member asked why the decision makers were not present, listening. Mr. Wiatrak responded that it was an excellent question.

Norm MacLeod stated that he appreciated that the DOE representatives were staff and were bringing the process to us. He stated that was why he was interested in being involved. He questioned why we were regulating when we had not even quantified the available water resources. He questioned why we were doing something that would cripple any opportunity this county had to do sensible, well-reasoned growth when we had such an economically depressed baseline to start with. He questioned why this was being thrust upon this particular county, which was so much more defenseless than other counties, because we had so little money coming in, since 62% of the land base was

owned by the federal government. He wondered whether this county was a good target to run something like this on because we were relatively defenseless. He stated that he would much rather see DOE do a rule making in King County where they had more resources. Phil Wiatrak stated that, while he did not share that observation, he could appreciate Mr. MacLeod's opinion.

Jim Hagen stated that the meeting had been kind of free flowing and not followed the agenda too closely, but that was as he thought it should have gone, because he thought a lot of people had great questions. He stated that GMA contained a planning strategy of "bottoms up" planning where the local governments got to make the decisions about their local areas. He asked that Doug Peters, DCTED, be given the opportunity to address whether and how these water rules might trump our local GMA planning.

Doug Peters handed out a document titled "Local Land Use Planning and Watershed Planning", which was an excerpt from the Guide to Watershed Planning and Management Addendum of November 2001.

Doug Peters stated that, in the context of the state GMA law, which was the overarching land use planning law in the state, a watershed plan would be considered a functional plan that would be incorporated into the land use plan. So, recommendations that would come out of a watershed plan, such as allocating water use, promoting conservation, addressing the local aspects where water intersected with peoples' lives, could be incorporated into the local land use plan and the local development code that would set the potential outcomes we were hearing about tonight. Such outcomes might include restricting where wells could be drilled by defining what was appropriate and what was not appropriate based upon the information we had. He stated that we were hearing about DOE's role in managing water resources, which was what they were required to do by law. He stated that DCTED helped local governments do land use planning. He stated that their take on growth management was that it was a framework for incorporating information from a lot of different sources and for a lot of different purposes, including managing water resources, into land use planning. He thought it was true to say that land use planning was a messy process. It did not happen quickly; it took a lot of time. There were a lot of different interests, issues and perspectives that came to the table. He stated that one of the challenges that every jurisdiction faced in planning was getting the public involved, getting the information out to the public so they could participate, and enabling participation to occur. He stated that it was not unique to the water issue; it was unique to planning in every aspect.

Doug Peters stated that there was a diagram on the back of the handout depicting the intersection of growth management planning and other types of planning. He stated that counties, as regional planning entities, established countywide planning policies. He stated that it was pretty wide open as far as what they could do, although there were some minimum requirements. He stated that things like regional approaches to water use or setting priorities for what was important to the local economy were examples. He stated that we had heard that small-scale agriculture was important to this economy. It would be actively addressed in the countywide planning policy. Then the land use plan would have to develop ways to achieve that policy. Then, ultimately, development regulations would be adopted to accomplish those goals and policies. All of those words, "plans", "policies" and "regulations", were simply ways to describe local decisions that were made. Under the GMA, it was the local governments that made the decisions; it was not the state telling the counties what to do. The state basically

set up the framework for what the counties should do and provided some tools to get there.

Jim Hagen stated that the county's planning was based on a 20-year population forecast. As such, the county had to assure that there was enough land designated for various uses to accommodate that growth. He stated the understanding that the planning had a duty to accommodate that projected growth. In other words, it was not growth restrictive; it was growth management. One thing he wondered about was, if you suddenly had a harsh rule on a resource, that really had a huge say about whether that land could be used. He asked whether some of the severe in-stream flow regulations would cause counties to re-adjust their population projections downward because they would not have enough water. He stated that, to him, it changed the dynamics of the whole planning process because now you were talking about growth restriction and not growth management. Doug Peters responded that it was a true characterization, but it was only a potential, and a lot of variables would go into that outcome, conservation being one of them. Whether all the different users managed water appropriately was another. He stated that existing water law pre-dated GMA by a number of years. He stated that he would not presume that the outcome of an in-stream flow would automatically result in land use restrictions or an inability to accommodate growth. He thought it would certainly make it more challenging. He stated that the allusion to the snow pack trends being on a downward trend in terms of quantity was a very real presumed fact that needed to be taken into consideration for both long-term resource management and land use planning.

Bill Graham stated that he wanted to raise an issue with land use implications that would occur with the in-stream flow rule that had not yet been discussed. He raised the issue of how the groundwater reservation was being set within the in-stream flow basins. He stated that it was based upon a low flow habitat flow, or 1% of that habitat flow, in a cfs value. What was important was that reservation quantity was enough for 111 additional wells within the Chimacum Valley, period, within the length of the rule. He stated that an analysis had been done using building permits. It showed that, if the building permit rate were a gauge of the number of wells that would be drilled, the reservation would be exhausted within three years. He stated that the rule was supposed to be re-opened within five years, based upon new information. So you would be looking at a potential 2-year timeframe where no building permits could be allowed. Kyle Alm thought the reserve in Chimacum was ten years. He stated that there were two different time periods specified in the rule, ten years and five years. Kathleen Ensenat stated that the rule could be opened sooner. Mr. Alm stated that the rule said "not less than ten". Mr. Graham stated that the point was that the limitation was that there were only 111 possible wells outside the PUD service area in the Chimacum basin, and based upon the building permit rates, the reservation would be exhausted in three years.

Dennis Schultz stated that another consideration, if that happened, was that the Chimacum basin would have hundreds of parcels that would then be unbuildable. Those lands would need to be down zoned and down valued, which would have an impact on the county tax base. Kathleen Ensenat stated that was where transfer of water reservation came into play. That was where land use planning and watershed planning tied together. As an example, the Big Quilcene basin had a surplus. Some of that could be transferred to the Chimacum basin. Bill Graham stated that DOE generally discouraged out of basin transfers, especially when in-stream flows were below minimum part of the year. Ms. Ensenat stated that we were talking about the groundwater

reservation. Mr. Graham countered that DOE considered surface water and groundwater essentially the same. Ms. Ensenat reiterated that some of the groundwater reservation could be transferred to another basin. Mr. Graham asked how that would be accomplished, physically or virtually. Ms. Ensenat replied that it would be physically. Mr. Graham stated that would entail a pipeline to move a portion of the reservation water to another basin. Ms. Ensenat agreed.

An audience member asked how long it would take to do a transfer given the DOE water rights backlog. Brad Caldwell stated that one of the reasons it took so long was because we did not have in-stream flows set, so DOE could not act on the water rights applications. Once we had in-stream flows set, DOE could act on them. Dennis Schultz stated that DOE had that backlog long before the water resource inventory was even dreamed of.

Bill Graham stated that what they were talking about was a plumbed system, which meant a public water system. It was not something that could be used by a single water user. Kathleen Ensenat agreed that was true.

An audience member discussed the outreach issue as one concern. He stated that he relied on the Internet. He stated that DOE used the newspaper, but that did not reach many people. Kathleen Ensenat stated that they had a lot of people on lists who were interested. The audience member stated that best science was the second concern. He stated that there was a difference between best available science and bad science. He stated that when bad science was used, this county got hurt. He stated that the county did not have the resources the state had. He stated that the county needed help from the state to get best science.

An audience member asked that DOE take back one thing. She stated that WSU had been pushing for the local farmers to provide food for the local counties. She stated that a 36-foot by 100-foot garden would not do much. She stated that the farmers were really working for the people. She stated that the farmers here had to be accommodated somehow in this process.

Dennis Schultz stated that he had a small farm. He described how much he spent last year in labor, goods, and services in this community. He stated that most of the labor was low-income people. He stated that a Department of Commerce study showed that money was turned over six to eight times in the community before it left. That was a significant economic impact on this county when you looked at all the small farms in the county. He stated that the DOE rule would wipe those farmers out.

An audience member suggested that a DOE hydrologist be present at the next meeting to present their side of what they knew to be best science in this area. Another audience member stated that the decision makers should be present as well instead of only staff members being here to hear the input.

An audience member stated that we had talked about small farmers who farmed on a few acres. She stated that did not address the larger farmers who were farming twenty acres or more.

Kathleen Ensenat, Bill Graham, and some audience members discussed exempt wells and the fact that an existing exempt well that went dry could be replaced without running afoul of the proposed rule. Concerning agriculture, Mr. Graham pointed out that an exempt well could only be used to irrigate a

garden of one-half acre. It was pointed out that limitation had been the law since 1945.

Jim Hagen stated that, to follow up on the importance of agriculture in this community, the rule said nothing about people in its purpose. He read the purpose from the proposed rule. He suggested that, in accordance with the Watershed Planning Act, the purpose reflect the interests of the citizens of the community. Kathleen Ensenat agreed that was a good comment. Mr. Hagen noted a news release from 1998 from DOE that was headed "Bipartisan effort generates bill to provide water for people and fish". He stated that he did not see that written into the purpose of the draft rule.

Wayne King, PUD #1 commissioner, stated that people were right about why Jefferson County had been chosen. He stated that the state PUD association was watching this process closely. He stated that the PUD association felt that DOE was going to use this guideline throughout all the WRIAs. He stated that there seemed to be a rush to get it done. He suggested that people check out DOE on Google to see what was going on. He stated that he had lived in the county for a long time. He stated the opinion that the draft rule was a joke. It brought nothing for the people; it was all for the fish. He stated that their attorneys were meeting with DOE and the Attorney General in two weeks to discuss it. He stated that the PUD would sue DOE over the rule because it left nothing for people. He stated that it was easy to set in Olympia and say how it would go. He stated that the people here had to "pound" on their legislators to get something changed. He stated that a lawsuit was not the way it should be done. He stated that the law allowed 5,000 gallons per day, but suddenly it was 350 gallons per day. He asked how that could happen. He stated that DOE was concerned about the in-stream flows. He stated that the paper mill wasted 2 to 5 million gallons a day through discharge into the bay. He questioned why they were not working with the PUD to recycle that water. He stated that there was a tremendous amount of water that we were wasting.

An audience member addressed a comment to County Commissioner Sullivan. She stated that the PUD notified everyone in their service area when something was going on, but people with exempt wells did not get notified. She suggested that a notice be sent to everyone in the county about this rule making process. Brad Caldwell stated that everyone who had an existing exempt well had a right to use that well; DOE could not legally take that away. He stated that the insinuation seemed to be that DOE could take away existing water rights, but that was not so. The audience member stated that people were affected, if not her personally, then her son who may want to build a house with a drilled well. She stated that if she was hooked up to the PUD, she would have had information, but because she had a well, she had no notification. She thought the county should advise people that a rule was in the making.

An audience member asked the Planning Commission to organize another meeting before October 5, before a rule was made. She thought there would be many people interested in this issue who would want to participate.

Commissioner David Sullivan stated that the county had a very good website that people could access. It could have links on it to other sites. He stated that the county sent out information about these kinds of meetings if people would get on the list. He thought the Internet really was the missing link for reaching a lot of people in the county.

Jim Hagen stated that the Planning Commission would do everything it could to address this issue before the end of the comment period. He again thanked everyone who participated, including Josh Peters who arranged the meeting and the DOE and DCTED representatives.

C. ADJOURNMENT

The meeting was adjourned at 9:33 p.m.

D. APPROVAL OF MINUTES

These minutes were approved this _____ day of September 2005.

Jim Hagen, Chair

Cheryl Halvorson, Secretary