

Seawater Intrusion: Jefferson County Response to Latest Hearings Board Order

Background:

- Jefferson County's UDC was appealed by Olympic Environmental Council and Shine Community Action Council for failure to protect water quality degradation caused by seawater intrusion.
- After hearing arguments on the appeal, the Hearings Board ruled that Jefferson County must designate and protect seawater intrusion areas to comply with the GMA.
- Staff proposed a range of potential regulations to comply with the Hearings Board order and held a public meeting to discuss these options with the BOCC.
- Staff, at the direction of the BOCC, formed the Seawater Intrusion Focus Group (SWIG) to review the issue and make recommendations to the BOCC
- The staff-drafted SWIG recommendations were brought to the Planning Commission, which did not make a recommendation to the BOCC for adoption. The BOCC subsequently adopted the staff/SWIG recommendations.
- The Planning Commission and BOCC held a joint workshop about seawater intrusion which included presentations from experts and state agency personnel
- The BOCC made final changes to the seawater intrusion regulations based on information obtained at the joint workshop.

After a compliance hearing on the merits, the Western Washington Growth Management Hearings Board ruled that the protections provided for ground water were not sufficient to comply with the GMA. The December compliance order is the topic for the workshop today.

Overview of the December, 2002 Compliance Order:

There were 5 overall directives from January 2002 order. Two of the five directives from the January 2002 order were found compliant in the December 2002 order. The December 2002 order discusses requirements to comply with the other three directives. To comply with the December 2002 order, the County will be required to:

- 1) Clearly define degradation, both in terms of an individual consultant report in high risk SIPZ, and overall in the adaptive management program.
- 2) Finalize the adaptive management program.
- 3) Clarify language about the 200 mg/L chloride threshold for permit decisions.
- 4) Set timeframes for re-mapping SIPZ.
- 5) Provide for public review in the seawater intrusion policy and/or adopt the policy as an ordinance.
- 6) Adopt more restrictive development regulations on Marrowstone Island. This is discussed in detail in the next section of this overview.

Existing DCD and Natural Resources staff can include items number 1 through number 4 in their workplan. However, staff would like to discuss the process for compliance with items 1 through 4, and compliance with item number 5.

Issues requiring BOCC direction

Process: The BOCC was clear in previous discussions that any future changes to seawater intrusion policy language would require more review and input from the Planning Commission than previous seawater intrusion language. Staff recommends that parts of the required changes are administrative clarification (i.e., clearly define how often SIPZ maps will be updated) and other issues may provide for opportunities for public input (i.e., providing public review and/or adoption of the seawater intrusion policy as an ordinance).

Staff recommends that the Planning Commission be briefed on the Hearings Board order on seawater intrusion, and some discussion be held with the Planning Commission about which changes required by the hearings board are administrative and which require significant changes to the adopted policy.

Marrowstone Island: The December 2002 hearings board order requires that the county, within 90 days, must adopt “more stringent protection standards” for Marrowstone Island. **“If the County does not adopt more stringent protection standards applicable to Marrowstone Island or adopt a moratorium on development proposals that rely on a groundwater well as proof of potable water while the more stringent standard is being developed, we will hear argument on noncompliance and invalidity on Marrowstone Island.”** The hearing is scheduled for April 9th, 2003.

More stringent standards could include things such as limitations on outdoor watering, requirements for special well pumps, or changes to existing users of groundwater to reduce the overall demand on the aquifer. **Staff recommends adoption of a moratorium instead of more stringent standards because it would be difficult to impossible to implement water use restrictions without adding additional staff to oversee and enforce.** These would likely be very costly to implement effectively and in the end, may still not meet the hearings board order. Other things may be proposed that staff has not thought of, and as they are brought forward, these should be evaluated individually.

The PUD has been petitioned to develop a public water system on Marrowstone Island, and would be the likely water purveyor of public water in the near future. Allowing development to continue with alternative water systems will cause the proliferation of alternative water systems. These systems are expensive, inherently less safe and less reliable than public water supplies. **Expanded use of alternative water supplies would also hamper the efforts to extend reliable safe public water to the island and would run counter to sound public health goals.**

The Growth Management Hearings Board order also makes reference to well drilling limitations that could be imposed by the County. Staff recommends that the BOCC not adopt a “well drilling moratorium”, as the County does not have clear authority to do so in the RCW.

Staff recommends compliance with the Growth Management Hearings Board order with an outright development moratorium on Marrowstone Island until such time as public water becomes available from an off-island source.