



January 13, 2010 Meeting Notes
Dungeness River Management Team
Dungeness River Audubon Center
Railroad Bridge Park, Sequim, WA
2:00 – 5:00 P.M.

Notes prepared by: Melissa Coughlin

Team Members/Alternates in Attendance:

Steve Tharinger, Clallam County
Cynthia Nelson, WA Department of Ecology
Scott Chitwood, Jamestown S’Klallam Tribe
Hansi Hals, Jamestown S’Klallam Tribe (alt)
Shawn Hines, Jamestown S’Klallam Tribe (alt)
Virginia Clark, Dungeness/Quilcene Planning
Les Jones, Dungeness/Quilcene Planning (alt)
Pete Schroeder, Riverside Property Owners (RM 3.25-4.25)
Al Moore, Riverside Property Owners (RM 0-3.25)
Robert Caldwell, Water Users Association
Tom Martin, Clallam County PUD #1

Robert Brown, Dungeness Beach Association
Scott Hagerty, U.S. Forest Service (alt)
Michele d’Hemecourt, NOLT
Michael Blanton, WDFW
Lorenz Sollmann, Dungeness National Wildlife Refuge
Don Hatler, Sports Fisheries
Joe Holtrop, Clallam Conservation District
Frank Needham, City of Sequim
Pete Tjemslund, City of Sequim
Judy Larson, Protect the Peninsula’s Future

Others in Attendance:

Robin Berry, Graysmarsh
Sarah Ferguson, WA DOE
Bob Barwin, WA DOE
Ann Soule, Clallam County
Ann Seiter, Consultant
Virginia Erwin, Citizen
Cindy Kelly, Dry Creek Water Association

Elizabeth van Sickle, Property owner/Resident
Steve Rankin, Streamkeepers
Byron Rot, Jamestown S’Klallam Tribe
Bob Boekelheide, Dungeness River Audubon Center
Powell Jones, Dungeness River Audubon Center
Welden Clark, Dungeness River Audubon Center
Melanie Roed, interested individual
Melissa Coughlin, Independent Contractor/note-taker

2:00 P.M.

I. Introductions /Review Agenda / Review and Approval of December 9th DRMT Draft Meeting Notes

- Steve Tharinger called the meeting to order. Introductions all around.
- Agenda was reviewed; Scott Hagerty asked to add an update on planning in the upper watershed to the agenda if time permitted.
- Judy Larson made a motion to accept the minutes from the December 9th DRMT meeting; Virginia Clark seconded the motion, which passed unanimously. The only changes to the minutes were a few corrections to the misspelling of Judy’s last name – Larson not Larsen.

Public Comment:

- Robert Brown commented that the pilings which support the dock at Dungeness Landing needed replacing. He also noted that there were no stakes or any signage or documentation where the shellfish garden was planned, (Hansi Hals remarked that the spot had been vandalized). He hoped that the planned Oyster House demolition announced in the paper would not interfere with fishing activities later in the year. Robert also suggested the removal of the mailbox at the front of the road and asked if the other building by the water at the landing would be removed. With regards to the MOU on the proposed River’s End restoration plan for WDFW property, the Dungeness Beach Association has reviewed the document and generally is in agreement - except on the issue of public access to shoreline for shellfish harvesting. DBA controls the access, and no public access exists. Robert suggested the MOU needs to include working with the other private organizations to determine an agreeable and appropriate implementation of the MOU. The MOU document didn’t mention working with organizations (like DBA) that have control over the shoreline in that area.
 - Steve Tharinger said that there would be a discussion at Team level after WDFW had finalized the plans, at that time this will be brought back as an agenda item.
 - Hansi Hals suggested talking to David Freed (Clallam County) about the shellfish garden.
 - Steve Tharinger said that Joel at the County may be a good contact with regards to removing the mailbox and replacing dock pilings.

- Joe Holtrop alerted the group that there will be construction on the irrigation ditch on Hendrickson Road. There have been two contracts awarded to pipe ditches.
- Byron Rot said that with regard to Kyle Guzlas (WDFW) update on River's End plans last meeting, WCC started planting the area discussed, which is currently in standing water. The River flow was just under 4,000 cfs yesterday. The WCC crew will be out again next month, followed by a tribal crew.
- Judy Larson mentioned the Washington State Supreme Court is reviewing the lawsuit re: municipal water law and wondered if/how that will impact the instream flow rule.
- Judy also expressed concern about the process and the use of taxpayers money in the creation of HarborWorks and its approach to remediation, restoration, and redevelopment issues at the Rayonier Mill Site. Obtaining the Rayonier tank to help with the combined stormwater/sewer problem for PA and our environs should not be the major driver.
- Judy also told the group that the first lecture in an upcoming series will begin Saturday, January 23rd at the Feiro Marine Life Center (at the waterfront pier in Port Angeles) at 6:30 P.M. The first lecture is: "Radiotelemetry, Ear Bone Chemistry, Genetics and Snorkeling" and will be presented by Sam J. Brenkman. Judy hopes that Shawn will send out an e-mail reminder and that people at the meeting will disseminate this information to their group's members to help make this a success for the Center that works to preserve marine environment.

II. Dungeness Instream Flow and Water Management Rule DRMT Workshop – Cynthia Nelson, Sarah Ferguson and Bob Barwin, Washington Department of Ecology

- The draft rule for Dungeness is available at Ecology's website. Cynthia has also put together a 19-page matrix which lists elements of the watershed plan and how/where they are addressed in the rule. (Contact Cynthia: Cynthia Nelson, WA Department of Ecology, Shorelines and Environmental Assessment, cyne461@ecy.wa.gov 360-407-0276.)

• Watershed Plan

Rule Elements:

Adopt instream flow levels into rule.	WAC 173-518-040 – Tables I and II, Flows
Provide potable water supplies for current and future needs	WAC 173-518-070, -075, -080 – Reserves, mitigation, maximum impact amounts
Develop new sources of supply.	WAC 173-518-090 Diversions during high flows

• New Water Supply:

Hook up to existing Group A systems when available on a timely and reasonable basis.	WAC 173-518-070
Obtain new water rights for Group A systems. Develop new Group B systems.	WAC 173-518-070, 075, 080
Drill to deeper aquifer. County will mandate drillers come to County prior to drilling. (Work through MOU, County and DOE.)	WAC 173-518-050 Directs drilling to lower aquifers.
Use reasonable assumptions for residential uses and amount consumed.	WAC 173-518-080 Tracking use of reserve and maximum impact amounts
Require conservation and efficiency for new users.	WAC 173-518-080
Effects of new withdrawals on low flows are to be minimized.	WAC 1730518-070, 075 – Mitigation and MOU between County and Ecology

- There is a major concern about how much water is actually consumed residentially. Will use net consumption for mitigation purposes promoting conservation and efficiency programs to educate people.
- Mitigation addressed in rule exists to minimize the effects of low flow. It is there to protect the water supply in the last months of summer and fall.
- Sarah Ferguson said she had received and responded to quite a lot of comments for the draft rule.
- The main purpose of the rule is to set flows. The flow recommendations in the rule are those agreed to from the watershed plan. (Section 040)

• **Recommended Flows:**

Month	Bagley Creek	Bell Creek	Cassalery Creek	Dungeness Mainstem	Gierin Creek	Matriotti Creek	McDonald Creek	Meadowbrook Creek	Siebert Creek
January	15	11	5	575	10	14	36	12	36
February	10	7	3	575	7	10	24	8	24
March	29	22	12	575	20	27	63	24	63
April	29	22	12	475	20	27	63	24	63
May	20	14	8	475	13	18	42	16	42
June	20	14	8	475	13	18	42	16	42
July	6	4	2	475	4	5	15	5	15
August	6	4	2	180	4	5	15	5	15
September	6	4	2	180	4	5	15	5	15
October	6	4	2	180	4	5	15	5	15
November	15	11	5	575	10	14	36	12	36
December	15	11	5	575	10	14	36	12	36

- Closures. (Section 050)
 - Mainstem Dungeness: July 15 - November 15
 - Small streams (Bagley, Bell, Cassalery, Gierin, Matriotti, McDonald, Meadowbrook, and Siebert creeks): Year-round
 - There will also be a year-round closure of the shallowest aquifer where lower aquifers exist.
- A diagram, "Ground Water Flow System," was shown where the water tables were shown in hydrogeologic units (water-table aquifer; upper confining unit; upper confined aquifer; lower confining unit; lower confined aquifer) and direction of flow for different streams.
- Future Appropriations. (Section 070)
 - Growth can still occur in the Dungeness despite instream flow setting and closures.
- First, new users will be required to seek a public water supply
 - New permit-exempt withdrawals are not allowed in areas where municipal water is available in a timely and reasonable manner. (Elwha-Dungeness Watershed Plan)
 - If this option is not available, then during the closure period, new water users will be required to mitigate.
 - Mitigation may be performed through the water exchange, or individually.
 - Mitigation to be water-budget neutral.
- Mitigation obligation:
 - The obligation will be set by the rule, but elements of the exchange will be laid out in a different guidance document. This will allow the exchange to be amended to meet changing needs without reopening the rule.
- Reservations and maximum impact amounts. (Section 080)
 - Will be available for domestic use only.
 - Domestic use is defined as "use of water associated with human health and welfare requirements, including water used for drinking, bathing, sanitary purposes, cooking, laundering, and other incidental indoor and incidental outdoor household uses." Incidental outdoor uses are uses such as watering container plants, car washing, etc.
 - Reservations: a limited allocation of water not subject to interruption when stream flows fall below the levels adopted in this rule.
 - Maximum impact amounts: a limit on how much impact resulting from ground water withdrawals can be tolerated before DOE declares water is not available.
 - Will act as a "cushion" for the bank by allowing a certain amount of impact to occur before mitigation is put in place.
 - When the reservation amount is met, no new use may be begun until mitigation water is put in place. The groundwater model will come into play here.
 - Total water use in a given sub-basin will always remain at or below the reservations amount.

- Sarah showed maps of the area which reflected groundwater impacts on streams. “Shallow Aquifer Dungeness River Impacts”; Middle Aquifer Dungeness River Impacts”; “Deep Aquifer Dungeness River Impacts”.
- Reservation debit amount:
 - Reserves will be debited based on best available information contained in metering data, water approvals from local jurisdictions, water rights, or other sources. Until metering data is available, a 150 gallons per day debit amount will be used. On-site septic will be debited with a 10% consumptive use rate (90% return flow).
- Byron Rot asked about accounting for outside watering. Sarah explained that the reserve water amount is figured for indoor use only; outdoor water use has to be mitigated.
- Shawn Hines asked about the difference between the reservation amount and the maximum impact amount. Bob Barwin said the reservation amount and the maximum impact amount were set equal; they tried to design the reservation numbers as a buffer. Bob said they were advised when sizing the reservation use for domestic uses and acceptable habitat loss mitigation. Mitigation banking process through the Exchange could issue more mitigation credits than is actually in reserve in some locations. If mitigation is purchased, credit can be given. Can't operate to exceed that maximum amount. Cynthia explained that with the low flow in summer, mitigation is needed to secure year-round water supply (there is no irrigation in the winter). Maximum impact amount is the commitment made in the rule to the rivers, fish and people who use river in recreational capacity. Bank can't issue credits in location where that would exceed impact allowed. This discussion concluded with the agreement that these descriptions need to be explained more clearly in the rule document.
- Robert Brown asked about the time span of the phrase “never exceed” – is that instantaneous, over a week or a month? Bob Barwin said that in terms of water balance process for the reservation it is really targeted for the four months of low flow. Not defined in the rule, but the rule does address the water balance being the total use and bank takes money and issues credit to achieve the balance. Steve Tharinger said that the idea is that measurement is specific enough so that there will never be a withdrawal that would exceed the amount of “wet” water available.
- Robin Berry voiced a concern over using irrigation water (which is in the river now, versus irrigation water that is currently in trust). Cynthia said that in the past they have paid irrigators not to irrigate at certain times. What is the physical effect of someone wanting to take more than 350 gallons? Robin is concerned that less farming and more development will result.
- Pete Schroeder asked if salmon recovery was the driver for all this. Scott Chitwood said all stages of the salmon (migration, spawning, rearing, life history) have to be assured. Pete asked if there was some cfs number that will cover all the biological needs.
- Metering. (Section 060). All new uses will have to meter - pursuant to RCW 90.03.360 and WAC 173-173.
- Mitigation plan elements. (Section 075).
 - Mitigation plans must be approved by Ecology. Judy Larson asked how the plans will be reviewed – are the plans available for public scrutiny, can other organizations look at them? Sarah said that individual plans will have to be approved by DOE. Bob Barwin said that it would be a departmental function. There is room for a certification process if it emerged locally, with some agency review and permitting process. Goal and requirements would be the same. In the end, DOE must approve.
 - Must ensure that mitigation measures for the duration of the water use requiring mitigation.
 - Must not be detrimental to the public interest or impair existing water rights.
 - Tom Martin asked about the difference between individual mitigation plans and mitigation using the Exchange. Sarah responded that the Exchange is primarily for exempt well users. Individual plans would be more challenging for the user. But, there would be a consistent review process for both.
- Maximum allocations. (Section 090).
 - For the Dungeness River only, will allow for water above the instream flows to be captured for interruptible uses, such as storage and habitat conservation. Judy asked about number of collectors and amount captured for storage, “up to 25 cfs” but tabulate to 25 cfs and add the unknown – how will that impact habitat? Byron asked for definition of “habitat conservation”. Cynthia said that is being looked at, aquifer recharge scenarios were run to determine amount of water used to recharge plus the length of time for travel to surface for benefit – using this to determine if there would be a benefit to surface water. Byron noted that no benefit was actually detected from the tests drives; he suggested a different term (than habitat conservation) be used. Cynthia said they had a limited number of runs, on a smaller scale they may use a side channel of the Dungeness, leave open for creative possible recharge or potential surface water storage.

- Michael Blanton asked about the review process for possible individual mitigation plans, since they are not clearly written or defined in the rule. Bob Barwin said that how to translate plans into mitigation is not set. Sarah said that are working with the County, Washington Water Trust and DOE on this. Bob Barwin said there are water transfer working groups in Yakima. Lawyers, engineers, fish biologists and water managers (a lot like DRMT) meet periodically to decide standards for mitigation. Byron was concerned about the potential impact to “wet” water with paper water rights still on the table for mitigation and the decision being delayed until later. Cynthia said that will be addressed in the following months.
- Next Steps in Rulemaking:
 - 6 week internal economic analysis.
 - File revised draft rule in the state register (March 2010 - begins 180 day clock).
 - Begin formal public comment period, respond to comments.
 - File final rule (late summer, 2010). Judy asked what is the RCW driving the economic analysis requirement? Sarah said it is an internal process. Bob Barwin cited the Administrative Procedures Act, RCW 3405.

BREAK, then *Dungeness instream flow and water management rule DRMT workshop* continued with QUESTIONS:

- Steve Tharinger said that a lot of comments to Ecology on the draft rule came in, and many questioned how the number (180 cfs for Aug-Oct) was set for the Dungeness. Many of the comments argued that, historically, this has been an unattainable number. The instream flows are a fundamental piece and are important to explain what they mean biologically.
- Michael Blanton agreed, and suggested it become an agenda item, exploring how the IFIM works and explaining how the data was used to generate the number.
- Scott Chitwood said that we have covered the topic in the past and it is a good time to review the subject with experts from WDFW and DOE.
- Steve’s concern is the feedback, especially from landowners, with regard to the data from the USGS gage from the last 10 years that some of the landowners have said show that number has never been attained. Byron said the number has been reached in the early part of the timeframe, then less and less. Steve thought it was important to clear it up for DRMT and the public in general to move the process forward. Scott C. suggested illustrating IFIM during July 15th – November 15th with peak daily flows and super-impose 180 cfs on the line. Steve suggested that 180 cfs isn’t acceptable or realistic to the public. There is concern that without an understanding of the numbers, the public will disconnect. Byron said that during low flow there is no extra water available, period. 180 cfs is real, and pink, Chinook, and summer chum all use that number for modeling. Steve thought that a large percent of the public will argue that number is unrealistic and if a lower number is used it will still trigger management tools. Cynthia said that the river closure is a given. Doesn’t matter what the flow, water rights will not be given without mitigation. People grab a hold of the number and obsess. Steve felt that politically the number chosen is a big deal and people will not accept the rule as a consequence. Why give people a reason to oppose rule acceptance, there needs to be a realistic number for political acceptance of the rule. Ann Seiter stated that comments on the rule which cited the data in her 2000 article in *The Journal for the American Water Resources Association* was used incorrectly and out of context. Michael Blanton thought that it would be worthwhile to spend some time to develop a thoughtful answer for that question and perhaps incorporate the last 70 years of data, or whatever is available. Discussion continued about flows changing many times in one day, how long snow pack lasts, and the different approaches in Wenatchee. Don Hatler said that the cost of building a house is so much more than a \$2,000 mitigation fee or drilling to lower aquifer and is not a big deal. That should be the message, that you will be able to build a house with an extra cost and mitigation will be part of that.
- Pete Schroeder asked what form the rule will take (for example an ordinance or statute). Cynthia answered that it will be a Washington Administrative Code (WAC). Pete asked about monitoring protocols, and a regular review process. Cynthia said 180 cfs is the expectation for targeting as a fish habitat goal, but it will be used as water mitigation and closure tool. The rule is one piece of the structure for water management and to restore flow. Pete said it would be helpful to translate the IFIM into everyday wording and asked if a glossary was included in the rule. Cynthia said there is no glossary in the rule, but the rule will have list of definitions. Steve said that the rule is sort of like a constitution, and is not drawn up to amend a lot. Rule principals and guidelines are included to direct the MOU and the adaptive management piece relates to habitat. Rule is a strong framework to then build the policies around (with other documents). Discussion continued on the 180 cfs number. Cynthia reiterated that the rule does not affect existing water rights, it does not put water back

into the river, and the rule does not mean that 180 cfs has to be met. Hansi Hals was surprised that the number was being discussed, as it was derived scientifically with DRMT's approval years ago. Byron said the fact that we don't reach the 180 cfs means that we do not have the optimal flow for fish. Any additional withdrawals will harm fish. BOR analysis of USGS gage stated the only significant finding in the 87 years of data was a downward trend of low flow. Revisiting the rule in five years may end in more restrictions. Scott agreed to revisiting the rule in order to make up for climate change and other variables. Pete said the amount of deterioration or improvement needs to be defined to see if changes have made a difference.

- Tom Martin asked about the economic impact analysis of the rule. PUD's mission statement, "*To provide reliable, efficient, safe, and low cost utility services in a financially and environmentally responsible manner*", implies that a balance of economic impact is part of their charge. Tom wanted to know what kind of attributes are addressed in the analysis. Bob Barwin said that the economic analysis looks at the total cost and total benefit and the benefits in the end must be demonstrated to outweigh the costs. Each rule is different and the scope varies depending on the requirements. Companion to that analysis looks at small businesses to determine if there are differential costs that negatively affect the subset of small businesses. This is all part of the rule package. Tom asked if the cost of new water will be estimated or projected and also asked if the economic impact analysis will be evaluating the effect of the Rule on land values. Bob Barwin said that to economists that is a transfer payment. Someone may pay the money, someone may get the money, but that may not affect the net. Overhead cost to administer will get captured but cost of water is transferred (and is neutral) but accounted for in the analysis. Lot values with water and without water are used. Good example is rule filed for WRIA 39 in 2009 – example of scope of analysis. Steve said there is an administrative appeal questioning the values of profit determined for that evaluation. Bob B. explained that is like a petition or request to the governor to vacate the rule. The governor has an amount of time to respond. It is not a legal review. There is an appeal process, no matter what the governor decides on the petition.
- Robert Brown asked, since we've been told the budget may be going away, are any contingencies planned from the state or DOE to implement their side of the process? Does the county have the obligation to step in? Steve said that the government does not usually fund enforced compliance, the administrative costs associated with the Exchange is built in to the cost of the commodity. Robert asked about the monitoring and support from DOE's side. Cynthia said DOE may maintain stream measurements, gauges, and the processing and review for water rights at regional offices.
- Shawn followed up on the IFIM discussion, and asked if a presentation at the next DRMT meeting should be scheduled. Steve said it is the public who needs education; it is the broader issue of managing the resources of the watershed. Scott C. suggested Brad and Hal adapt and customize their presentations for the Dungeness, although some people simply won't accept the number no matter what it is. Byron said they should include how IFIM is used in the rule. Steve thought some of the public will see the number as high, so that Ecology can control it all. Cynthia said they will be presenting a "primer" to interested groups: Realtors, Chambers of Commerce, one-on one. Steve said that yes, Shawn should schedule the presentation for DRMT soon.
- County has contracted with Washington Water Trust and DOE and will present "nitty gritty" on mitigation with details on the exchange to DRMT in February (or as soon as they can). Steve acknowledged Shawn's work getting the agendas on track and scheduling people to give presentations.
- Steve thanked Bob Barwin and Sarah Ferguson for joining DRMT to discuss the rule today.
- Visit DOE website to keep informed: <http://www.ecy.wa.gov>

III. Other Business / Announcements

Clallam County application for EPA Puget Sound Watershed Assistance Grant (request for letters of support) – Ann Soule, Clallam County

- There is \$10 million from EPA for grant applications which are due at the end of January (thanks to Congressman Norm Dicks who got \$20 million in grant funding for Puget Sound Partnership). Ann Soule explained the EPA opportunity is for a water quality and aquatic resources grant. EPA is essentially looking for projects that protect watershed, water quality and aquatic resources from the impacts of growth and development. Clallam County Environmental Health is involved with a low-cost loan program for septic repair. Jefferson County already has this program with direct funding from Hood Canal affiliation. Jefferson County is going in with the application as the lead, the other activities that are proposed include incentives, outreach and technical assistance in Conservation Districts in Jefferson and Clallam Counties and other basic support for on-site education and outreach. The maximum that can be applied for is \$1 million, ours is one of four applications that Ann knows about. One is (Clallam County is lead) for enhancing shoreline protection, "Clallam Shoreline Master Program Enhancements Draft Proposal". January 26th is the due date.

- Grant application is not finished yet. Ann will be sending out by e-mail the grant application and a suggested letter of support that could be used by DRMT members to send with the application. Ann thought letters of support would be helpful, but Steve had a conversation with John Cambalik that suggested they hadn't set up a structure to prioritize the four projects and didn't really know if DOE wanted letters of support. John C. will be getting back with regard to letters of support, and then the letters will be requested if needed from DRMT members. May just list DRMT members with some signatures – Shawn to take care of signatures from Tribe representatives.
- Steve said there is another \$50 million for EPA. Thinking of guidelines or MOU for block grants to the Action Areas. Want to be more strategic in the PSP for directing funding for specific topics, etc.
- Don Hatler brought up the Atterbury Reservoir as a project that is ready except for funding for a feasibility study. Cynthia said that she had put in for money for the feasibility study.
- Ann said the projects are all important and should be moved forward. Steve said that it is important to prioritize. PSP will be implementing a broad ecosystem strategy. Might be worthwhile for the DRMT (or DRMT Executive Committee) to have discussions on how to deal with prioritizing broader ecosystem issues.

Upper watershed planning update – Scott Hagerty, U.S. Forest Service

- Primary funding source for restoration projects is called, "Legacy Roads and Trails". It has grown from \$8 million the first year to \$20 million the second year, to now \$90 million nation-wide.
- Especially successful in the Skykomish watershed the last several years. Focus was restoration in that watershed.
- Next watershed we're looking at is Kalaloch, by Forks.
- New watershed may be the Dungeness. Asking for funding in 2011 for restoration planning. Would like support from the DRMT for this program. 2012 implementation will include road decommissioning, in stream structures, upgrading culverts, and fish passage barrier removal. On National Forest land there may be opportunities to partner with National Forest Service.
- Proposals will be in next week for the next 3-year work program. 2011 Planning – Watershed Action Plan. Dungeness watershed analysis and looking at watershed, recreational, and restoration priorities.
- 2012 will begin implementing.
- Scott H. will present to DRMT in the future to solicit input after list of priorities are developed.
- Steve asked why Kalaloch was prioritized over Dungeness. Scott H. said it had to do with Coastal Restoration Initiative; projects had to be on the coast.

Public Comment

- Pete noted the Dungeness River had radically moved at the west end of the bridge.

IV. Meeting Adjourned at 5:00 P.M.

Handouts:

- None for this meeting.