

Dungeness River Management Team Meeting

July 9th, 2008 - Notes prepared by Melissa Coughlin

Team Members/Alternates in Attendance:

Steve Tharinger, Clallam County
Shawn Hines, Jamestown S'Klallam Tribe (alt)
Cynthia Nelson, WA Department of Ecology
Virginia Clark, Dungeness/Quilcene Planning
Pete Schroeder, Riverside Property Owners
Mike Jeldness, Water Users Association
Bob Caldwell, Water Users Association (alt)

Don Hatler, Conservation Dist. /Sports Fisheries
Judy Larson, Protect Peninsula's Future
Robert Brown, Dungeness Beach Association
Scott Hagerty, U.S. Forest Service (alt)
Pam Sanguinetti, USFW-Dungeness Wildlife Refuge
John Cambalik, Puget Sound Partnership

Others in Attendance:

Robin Berry, Graysmarsh
Elizabeth Van Sickle, Property owner, resident
Steve Rankin, Streamkeepers

Sarah Ferguson, WA Department of Ecology
Welden Clark, Dungeness River Audubon Center
Bob Boekelheide, Dungeness River Audubon Center
Melissa Coughlin, Ind. Contractor/Note-taker

2:25 P.M. Meeting called to order.

I. Introductions /Review Agenda / Approval of 4/9/08, 5/14/08, 6/11/08 Meeting Notes

- Chairperson Steve Tharinger waited until Cynthia Nelson arrived to call the meeting to order. Introductions all around.
- Additions to agenda: DRMT logo update requested by Robert Brown.
- Virginia Clark moved to approve April DRMT notes as submitted; Don Hatler seconded the motion, which then passed unanimously. Correction: add Don Hatler to list of attendees for that meeting. Robert Brown clarified that under River's End Update (where it discusses plans for dikes), those dikes are on property owned by Dungeness Farms.
- Motion to approve May DRMT notes made by Judy Larson; Mike Jeldness seconded the motion, which passed unanimously. Changes: Judy Larson edited language from her quote. Also noted that comments made by Scott Chitwood needed re-working.
- Motion to approve June DRMT notes made by Mike Jeldness, Cynthia Nelson seconded motion, which passed unanimously. Page 9, item 4: "Happy Valley Pruning Fiasco" needs clarification. Steve Tharinger suggested changing "fiasco" to "issues".
- DRMT Logo update: Shawn Hines reported that Susan Stark has been working with a graphic artist and should receive revised logo next week, along with sample of letterhead. Will electronically distribute prior to next meeting. Robert Brown asked about uses of logo. The logo will be used in DRMT correspondence (letterhead), on the website, and will be the "brand" for DRMT.
- Shawn Hines read announcements sent from Cheryl Baumann: **Wed, 7/23/08, 1:00-4:30:** LEG meeting to finalize funding list. Everyone welcome; Phil Roni (member of NOAA's Regional Implementation Team that reviewed NOPL's recently completed work plan) and Rebecca Ponzio from Puget Sound Partnership (PSP) will be there to discuss their review of the workplan. **Wed, 7/16/08, 9:00-12:00:** Technical Review Group meeting to hear from consultants Mille Judge and Carol McIroy (both previously from Shared Strategy, now working with PSP as part of a pilot project to develop an implementation monitoring report card). **Mon, 7/14/08, 10:00-1:00,** Paul Cereghino of the Estuary and Salmon Restoration Program will discuss upcoming grant round and request for proposals. All meetings will be in the Carver Room at PA library.
- Judy Larson suggested an agenda item for future meeting: Use of biosolids from City of Sequim's sewage treatment plant, and their related NPDES permit. Would adding biosolids to landscaping efforts affect the water quality of the Dungeness River? Monitoring in the critical recharge areas? What sort of attention is paid to distribution of material and what are consequences to water quality in the Sequim-Dungeness Valley? Study on adverse effects. Now placing biosolid material along Sequim bypass. Steve Tharinger asked Judy Larson to look into which entity decides (DOH, DOE) location for biosolid material deposits and find speakers on this issue for a future meeting.
- Pete Schroeder asked about format for DRMT meeting notes. Specifically wanted to send Mr. Chris Byrnes the 6/11/08 notes to see if they are correct on issue of work done under Water User's Hydraulic Permit. Discussion began on how web-posted notes are a reflection of DRMT organization; should they be verbatim, summary of meeting or something else? Steve Tharinger reminded team notes are not policy or required, just a record of discussion. Team was reminded that May and June notes were not DRMT's usual format, due to Melissa's absence. If members have concerns or changes about those notes, send to Shawn Hines and/or Melissa Coughlin. Cynthia Nelson volunteered to review and re-edit the May and June notes.

Public Comment: None at this time.

II. Watershed Planning Updates – Cynthia Nelson & Sarah Ferguson (Washington Department of Ecology)

- Steve Tharinger introduced topic describing DRMT as the “citizen’s group” engaged in rule-making process. There is also an Executive Group (made of representatives of some government agencies, the Tribe, and County, PUD) as well as a Working Group (other stake holders and general public representatives who meet to talk about the language, among other topics) engaged in the effort. Sarah Ferguson will be writing the rule.
- Sarah Ferguson reminded the Team that the Watershed Plan was adopted in 2005. She explained that the Executive and Working Groups have been meeting during the last couple of years to develop an instream flow and water management rule, which will give a water right to river. Growth and development have to be taken into consideration, as well. Executive and Working groups meet monthly, and two public workshops have been held: 1) Introduction to watershed and water issues. 2) Water management. There will be a third workshop in the fall to discuss the rule language. Individual outreach is planned where various groups will be addressed: League of Women Voters, well drillers, realtors, Rotary, and others. Awareness articles have been placed in local papers and more are scheduled.
- There are three components to this rule-making: the rule, a Water Exchange, and an MOU with County to implement the rule. Schedule: January filing date for draft rule, which kicks off more of a public process. Public hearing, public comment period: comments are taken into account and assuming there are no substantive changes (which would mean beginning the process over in entirety), the rule is adopted within 180 days. Rule becomes effective 30 days after that. A responsiveness summary is required by Ecology which will respond to each public comment. An economic impact statement is also required, as well as a cost/benefit analysis which must show the benefit of the rule outweighs any impacts of the rule.
- Cynthia Nelson explained that during the pre-filing process the whole breadth of comments are heard and adjustments are made (or not made). The January date depends on where we are with the process. With once-a-month meetings, it is difficult to stay on track with the timeline.
- Steve Tharinger explained the priority date of the rule sets the instream flow rule – giving a water right to river; any rights obtained after that priority date are “junior”, and subject to the flow rule, meaning juniors would lose access to river if recommended instream flows are not met. (Agriculture rights are senior rights). The rule will probably close the basin to new water rights, and mitigation will be necessary to obtain water. Not an easy process; trying to find a mechanism for mitigation, such as the exchange.
- Mike Jeldness asked if Schoolhouse Bridge gage will be used as the control point in deciding if flows are being met. Cynthia Nelson said yes, flows must be met at that downstream gauge. Shawn Hines asked why that is the case when the CIDMP used the USGS gage minus 10% for groundwater loss to estimate flows that would occur at the IFIM site (river mile 4.2). Cynthia said the lower gage was recommended in the plan, but she realizes that people may not have understood the nuances of that – so will need to discuss with those concerned. Sarah Ferguson noted that usually downstream sites are used as control points because it is assumed that if flows aren’t being met downstream, they are not being met upstream.
- Don Hatler asked how the numbers for the instream flow were decided. Cynthia Nelson answered that numbers from the Watershed Plan are being used.
- Pete Schroeder questioned the process being based on allowing for future growth and development, and hoped there were other concerns. Steve Tharinger said that water right for the river was the first component, then mitigation and exchange would have to be set up for growth.
- Sarah Ferguson noted that individual priority dates (for exempt wells) are set the day one actually start using water, not the day the well is drilled. Quantity of right is determined on what one actually uses. If one wanted to transfer water rights, one could only transfer for valid amount used.
- Pete Schroeder asked about well metering to establish consumption. Steve Tharinger said the advantage of metering is it is a good management tool, as you can determine budget for consumptive use; however, there can be consequences when people misuse to establish higher quantity of water (e.g. leaving water running all day). Issue for County to manage. Outreach and

education on water conservation at the homeowner level is important. Voluntary means and incentives are planned.

- Judy Larson asked if there was an inventory of water present, water use, and if the purpose of use is being documented? Cynthia Nelson explained that there is a tally of all existing water rights, claims and permits in the Watershed Plan (available at library and on County website).
- Discussion on political consequences of metering and water use limits began.
- Robert Brown brought up question of hydraulic connectivity; with the three aquifers at different depths, the relationship to instream flow of shallowest two aquifers may be clear, but not clear relationship with deepest aquifer. Cynthia Nelson cited the consultant studies (Blake Thomas USGS report) in 1996-97 which entailed major data gathering to characterize what happens to the water from the mountains. Then, went beyond analysis of USGS with latest groundwater model. The groundwater model shows the relationship among the various aquifers over time. This is one of the biggest issues for public awareness. Cynthia Nelson suggested that Dave Nazy (Ecology hydrogeologist) come again to a future meeting to remind everyone about hydraulic connectivity.
- Scott Hagerty asked about climate change considerations in rule; snow pack issues also raised; rule will have to deal with changes, trends; rule can be reopened if additional data available.
- County (permitting and monitoring) and Department of Ecology (water rights) are responsible for different pieces related to rule-making. One of the deliverables that will result from rule making is a “user guide” to explain water bank.
- Robert Brown felt economic incentives would work well for compliance with monitoring. Fee for non-compliance; money could help fund monitoring efforts. Steve Tharinger noted that incentives will be part of process of exchange mechanism.
- The water exchange is basically a mitigation strategy to offset the effects of development. Some of this will go into the rule, some will be addressed in a memorandum of understanding between DOE and County before rule is final. Washington Water Trust was recently hired as consultants to help coordinate how the exchange will work.
- Judy Larson asked if some of the recommendations (such as graywater gardens) mentioned in the draft of the Stormwater Manual will be considered as one of the mitigation strategies. Cynthia Nelson answered yes, definitely.
- Priority Date: Cynthia Nelson handed out three documents and drew attention particularly to “Determining Priority Date of the Proposed Dungeness Rule Instream Flow and Water Management Rule,” prepared by Ecology. It cites the following statutory language: *“Notwithstanding RCW 90.03.045, minimum instream flows set under this section for rivers or streams that do not have existing minimum instream flow levels set by rule of the department shall have a priority date of two years after funding is first received from the department under RCW.900.822.040, unless determined otherwise by a unanimous vote of the members of the planning unit but in no instance may it be later than the effective date of the rule adopted such flow.”* For DRMT, this means the current priority date of the rule is 2001, and all wells and water right permits put into place since 2001 will be subject to the rule. Alternatively, the DRMT could vote to change the priority date to 2009 (or some other date no later than rule adoption). In order to change current priority date, voting members of DRMT must vote unanimously. If DRMT does not vote unanimously, priority date will be retroactively set to ~2001 (water rights after 2001 would be “junior” and interruptible).
- Data from Dave Nazy was handed out. This data was incorporated into Ecology’s priority date paper to show numbers of wells and building permits in the Dungeness portion of WRIA 18 that have gone in through June 2008 (data includes wells and permits from Jan 1987- June 2008). This data was used to estimate new water use since 2001. A third handout (prepared by Dave Nazy) displayed estimates of water use by exempt wells under different scenarios. Impact from water usage was discussed. Estimates show that, on average, approximately 160 wells have been drilled every year from 2000, meaning 1,200 wells would be junior to the instream flows and subject to regulations of the rule if a 2001 priority date is used. During the same period 1,871 new building permits were filed (almost 250/year).
- Discussion ensued on the political and environmental impacts related to the different priority dates.
- Shawn Hines asked if other WRIAs have had to deal with this issue, where such a long time had passed from funding to rule finalization, and if so - what was done. Cynthia Nelson replied that in Quilcene-Snow area the planning unit is planning to argue the statutory interpretation of the priority date.

- Steve Tharinger suggested voting on this next month, but we may need further clarification about this -- other trade-offs, additional mitigations, agreement on assumptions, lots of things that have to be put into place.
- Don Hatler thought there would be a big problem with all the people who applied for building permits who were not informed of these new restrictions and status at the time they filed (from mid 2000/2001 on). By retroactively putting rule into place you are open to litigation. Steve Tharinger reminded group that during public outreach sessions it was announced that restrictions would not affect people if they currently had a water right.
- Cynthia Nelson said the 2001 priority date was understood during the Watershed Plan development efforts, but was never thoroughly discussed.
- Steve Tharinger asked what further information do members need to make decision?
- Priority date defines what we have to mitigate. Don Hatler said that by retroactively setting priority date we won't be adding any water to river (already used) will just incur wrath and possible litigation from anyone with a building permit issued from 2000-2009.
- Members asked if any other date can be set – Cynthia Nelson answered that the DRMT can use any date up to the date the rule is adopted.
- Cynthia Nelson has asked Dave Nazy to detail location of building permits in relationship to irrigation ditches, to provide further information when making this decision.
- Steve Tharinger suggested sending any information that may help in decision-making process to Shawn Hines for dissemination to team. Agenda item for August: further discussion on priority date. Voting to happen at a future meeting.

III. Dungeness Collaborative Stewardship Project – *Scott Hagerty (U.S. Forest Service)*

- Due to time constraints, this topic will be presented at August DRMT meeting.

V. Puget Sound Partnership Update – *John Cambalik (Puget Sound Partnership)*

- Each of the seven Action Areas will have a workshop in the next two weeks. Reminded team of July 17 Workshop for the Strait of Juan De Fuca Action Area. DRMT is encouraged to participate. 1:00-5:00P.M. at the Red Lion Inn in Port Angeles. Workshop will focus on two documents (find on the Puget Sound Partnership website). John Cambalik talked team through the documents.
- Initial Strategic Priorities: developed from previous workshops, topic forums on goals and from Science Panel input. (A) Ensure that activities and funding are focused on the most urgent and important problems facing the Sound. (B) Protect intact ecosystems processes that sustain Puget Sound. (C) Implement restoration projects (that will re-establish ecosystem processes). (D) Prevent sources of water pollution.
- Science Panel is developing strategic science plan, part of which will investigate pollutants.
- First draft of Action Area Profiles: 3 parts- (1) Narrative: most important, includes physical characteristics, threats. (2) Action area map: needs some corrections, adjustments. (3) Action area concept diagram: useful for less informed, not the workshop crowd.
- July 17 Workshop later afternoon - Session I: Is Action Area Profile accurate? What needs to be changed? Session II: Four Questions: (1) How does what you do fit into strategic priorities? (2) What additional actions are needed to be addressed in Action Plan? (3) What are the barriers in the Action Area? Funding? Staffing? Monitoring to accomplish tasks? Political roadblocks? (4) What are additional priorities that don't align to strategic priorities of entire group?
- Pete Schroeder asked if there was a representative for the DRMT at the workshop. Steve Tharinger said there wasn't; one should identify themselves as a member of the DRMT, but not as spokesperson for the DRMT.
- Please RSVP on-line if you plan to attend July 17 Workshop– need count for handouts, etc.

Public Comment: None at this time.

Meeting Adjourned at 5:25 P.M.

Handouts:

- From Cynthia Nelson, DOE: "Determining Priority Date of the Proposed Dungeness Instream Flow and Water Management Rule"
- From Cynthia Nelson, DOE: "Revised Building permit and Water Well Data for the Dungeness Watershed"
- From Cynthia Nelson, DOE: 6/26/08 e-mail from Dave Nazy, "Estimates of water use by exempt wells under different scenarios (Nazy, 2005)" large excel chart.