

From: Mike Rundlett
Sent: Tuesday, June 30, 2009 2:19 PM
To: Dunn, Andy (ECY)
Cc: Mike Shelby
Subject: Skagit Agricultural Irrigation Water Use

Andy,

Thank you for forwarding a copy of the June 4th letter from Mr. Larry Wasserman, Swinomish Tribal Community.

As you know the Skagit agricultural community has been very forthcoming about current agricultural irrigation water use as well as future needs for irrigation. I would reference the Skagit Basin Comprehensive Irrigation District Plan (Skagit CIDMP), published in October 2006; and the Prospectus: Skagit Delta Agricultural Water Management Pilot Final Report, issued in February 2008 including the accompanying legal memo for this report, dated April 3, 2008, by Cascadia Law Group. Our discussions with your agency and others have been open and honest, and taken at some risk because of the recognition that not all use is fully compliant with administrative requirements of the state's water rights laws. At the same time we have recognized that individuals may legally use water within the drainage system for irrigation purposes, with the permission of the drainage districts. Reference to this authority may be found at RCW 85.08. We would also note that in some areas of the delta, water is being obtained from the City of Anacortes and/or the Skagit PUD for seasonal irrigation of agricultural lands.

We have engaged a locally collaborative planning process and developed recommendations that will address the current and future framework for agricultural water management and use on the delta. The Swinomish Tribe was invited to participate but declined. Nevertheless, we believe that protecting instream flow needs in the lower Skagit and Samish Rivers, and preserving the interests of Skagit farming will only be achieved by working together. We are hoping to find investment to continue moving this initiative forward.

Unfortunately, Mr. Wasserman chooses a different path. He would differ with all of those that have participated in this collaborative effort to date. He sees the information we have developed for addressing these issues, and instead chooses to use it to attack the agricultural community. He would prefer to send your agency off to simply "enforce and take away the water". At best, the agricultural community finds his attitude toward delta farmers mean-spirited and counter productive.

In our review of the June 4th complaint letter and supporting materials submitted by Mr. Wasserman, we have a few observations.

- 1) After Mr. Wasserman's complaint last year we would have hoped that he had gained a better understanding of drainage district authorities to permit water use for irrigation from their ditches. I would observe from the maps that several of the locations appear to be such withdrawals.
- 2) We have observed that some farmers routinely withdraw from their wells - with a water right - and use the ditches to convey the water to their fields. There occasionally may be a 'place of use' issue depending on the seasonal crop rotation needs. A number of the locations on the map likely are related to this practice.

3) There are a number of farmers that have purchased water from the City of Anacortes and/or the Skagit PUD for their crop irrigation needs. From my review of the map a few of these irrigation locations would appear to have been water from these sources.

Mr. Wasserman has presented you with a lengthy letter, a map with a lot of red dots on it, and a list of observed sites and purported undocumented uses. It does not distinguish between surface or ground water sources. He admits the work is not precise, but it is also misleading. These materials are presented to leave the reader with the impression that there is rampant illegal agricultural irrigation water use. We do not agree. There is always a certain amount of noncompliance, and a very few of those dots may identify such locations. However, in our view the majority of those dots will be erased for the reasons explained above.

Additionally, Mr. Wasserman expresses as his reason for the complaint, their concern for the adverse impact this may be causing to instream flows. I would refer to the Skagit CIDMP which identifies 273 agricultural surface and ground recorded water rights certificates, permits and claims in the Skagit and Samish deltas, not all of which are used or fully exercised in any given year due to crop rotation requirements, weather and other variables. The Skagit CIDMP concludes that the impact of delta agricultural surface water diversions is relatively minor when compared to streamflow in the lower Skagit River mainstem, representing 0.03 percent of the mean monthly flow in September, which is the lowest recorded mean monthly flow during the year.

I hope this information will be useful as you respond to Mr. Wasserman's letter. If you have any questions please give me a call. We look forward to seeing a copy of your reply.

Thanks,
Mike

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