

8 March, 2011

To the members of the Yakima River Basin Water Enhancement Program Working Group and associated parties.
Comments on the Water Reserve Program from Aqua Permanente;

We commend Kittitas County and Ecology for working together to find water solutions for the Upper Yakima Basin. However, we would like to remind people of some of the water issues we are facing:

* In Upper Kittitas County, before new wells can be put to use, a mitigating amount of Senior water must be obtained. The water offered by Suncadia covers many areas, but not all. There are strong reasons that these "red" areas cannot be mitigated with water behind the Cle Elum dam (via special agreement with the Bureau). Some of the reasons are because the locations in the red area have critical tributaries that are currently impaired. Other reasons are because Suncadia purchased water to leave instream (part of the complicated process of buying and transferring water) so that some of those tributaries can be restored. Swauk Creek is an important example of mitigation water remaining instream. Many local, state and federal entities have worked together to protect and enhance the salmon habitat of Swauk Creek. We are alarmed about "trading habitat" for water credit and would like to better understand how this will prevent stream impairment before irrevocable development occurs and new users are established in sensitive areas.

* There are currently draft plans to allow cistern use in Kittitas County where senior water rights are unavailable and streams are threatened. This, in theory, could be beneficial in water short areas. In reality, however, this would only be beneficial if the entire amount of water for the residence was delivered by truck. A minimal amount of rainfall catchment could also be utilized. For much of the upper portion of Kittitas County this is around 22" of precipitation - *annual average*. It also can mean as little as one half inch in the summer, so obviously not a dependable source for water. If any amount was to be withdrawn from the ground this would negate the benefits of cistern use.

* Many assumptions are being made regarding the Bureau storage of water. Flexibility is not the term to describe the agreement between Suncadia and the Bureau. Specifically, it has been mentioned that this was a "one time arrangement, not to be considered as precedent for future agreements".

* Some politicians have referred to an inherent "right to water". This has been popping up in the water dialog more and more frequently. We would like to point out that the human right to water, as determined by the UN, equates to about 25 gallons per person per day. We already know what happens when there is not enough water to go around. A human right to water does not translate to an amount of water necessary for speculative building practices. We would also like to point out that propping up unsustainable development practices resulted in the tremendous crash of the recent past. Is this really the highest and best use of a critical resource? Especially if existing users are not being considered in this equation?

* Finally, and most importantly, on what legal basis can the YRBWEP agree to create new users before solidifying the rights of the proratable users? Junior users are currently considered to be fulfilled if they get 70% of their allotment. What about making those water rights completely whole before future uses are allocated? Why would a potential, future water user skip to the head of the line over existing users? What about existing users with 100+ year old proratable water rights as in the case of the members of Aqua Permanente? What about all the rural domestic uses throughout the Yakima Basin that has been based on exempt wells and are unaccounted for? Will the oldest users be mitigated first? What will justify passing over these users and issue water rights in water short areas? If development occurs and the suggested mitigation schemes fail, what then? What about buffers to account for climate change? While it may be possible to leave some fields fallow in times of drought, the fish have specific needs (in both quantity and quality - including temperature) that have little flexibility. It is important to note that the current Suncadia water bank only offers mitigation water for uses after 2003, part of the induced growth concept. This water bank is unavailable to exempt wells prior to that date. Before committing to additional permanent uses, make sure the current water users, both instream and out of stream, are made whole.

Aqua Permanente has had at least one member at every single meeting of the YRBWEP since it was reconvened in June of 2009. We have monitored the progress very closely. We see the complexity and fragility of the process, but also see the importance of coming together to address the issues. Water banking is indeed a way forward for this basin, but we need to make sure that we are not compounding an existing problem instead. We agree to water banking as a solution for future growth, but only after all the existing users are made complete - including prudent buffers for times of instability. We also believe that the lenders should be reviewing the discussions so that this time they understand the water issues before we create another unsustainable growth pattern. Sincerely, Melissa Bates for Aqua Permanente.

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