

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CLALLAM COUNTY
AND
STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY
REGARDING
IMPLEMENTATION OF THE
Water Resources Management Program for the Dungeness Portion of the
Elwha-Dungeness Water Resource Inventory Area (East WRIA 18)**

This Memorandum of Understanding (also referred to as the "Agreement") is made between Clallam County, a political subdivision of the State of Washington (hereinafter referred to as "the County"), and the Department of Ecology, an agency of the State of Washington (hereinafter referred to as "Ecology"). The purpose of this Agreement is to outline the fundamental roles and responsibilities of Ecology and the County with respect to the implementation of the Dungeness Rule. The parties do not intend this Agreement to constitute a legally binding contract.

I. Recitals

- 1.1 On November 16, 2012, Ecology adopted the Water Resources Management Program for the Dungeness Portion of the Elwha-Dungeness Water Resource Inventory Area (WRIA 18), Chapter 173-518 (also referred to as the "Dungeness Rule" or "Rule"). The Dungeness Rule established instream flows and maximum depletion amounts which will be used to regulate future permitted and permit-exempt water uses after the effective date of the Rule. The Dungeness Rule also included requirements for mitigation of groundwater withdrawals and other water resource management provisions.
- 1.2 This Agreement is intended to establish the guiding principles that the County and Ecology will employ in the implementation of the new Rule for East WRIA 18. Unless otherwise specified, this Agreement applies to the areas and features shown on Attachment A.
- 1.3 Ecology is required to administer and enforce the State's water resource laws: *e.g.* Chapters 90.03, 90.14, 90.42, 90.44, 90.54, and 90.82 RCW, as well as associated administrative rules, including the new rule, Chapter 173-518 WAC. Ecology has the exclusive authority to use the trust water right program for water banking purposes under RCW 90.42.100 -130.

The County, as a political subdivision of the State of Washington, makes decisions regarding development permits under Chapters 19.27, 36.70A, and 58.17 RCW. The County's ability to approve many development permit decisions is premised on the availability of water under the Rule.

- 1.4 The County and Ecology seek to exercise their respective, independent, and regulatory powers, as the case may be, in a manner consistent with RCW 90.54.

- 1.5 The County and Ecology agree to work together as necessary to support implementation of the Dungeness Water Exchange (water bank under RCW 90.42.100).

II. Roles and Responsibilities

A. Ecology Responsibilities

1. Enforce the Rule and all other applicable provisions of the state water code, whether or not the water use relates to a County development permit.
2. As resources permit, initiate on-the-ground surveys and follow up with appropriate compliance actions to bring the user into compliance for illegal water withdrawals.
3. Track, enforce, and make available to the public the reserves, maximum depletion amounts, and maximum allocation amounts.
4. Assist with Rule and Ecology water resource management policy interpretation where necessary.
5. Answer questions and provide technical assistance to the public and County having to do with Rule implementation and compliance.
6. Include well drillers in Rule implementation outreach efforts.
7. Provide Rule implementation guidance including:
 - What landowners, builders, and real estate agents need to know about water for a new home or land division
 - What new water users need to know regarding metering specifications
8. Evaluate ongoing effectiveness of mitigation.
9. Support funding for a domestic water mitigation program.

B. County Responsibilities

1. Issue land development permits consistent with the laws of the State of Washington.
 - a. Prior to approval of development applications, confirm that applicable mitigation obligations, if any, have been met.
 - b. For applications with mitigation obligations, verify that a Mitigation Certificate pertinent to the parcel has been recorded with the Clallam County Auditor's office.
2. Notify Ecology when a Group A water system has agreed to a new connection.
3. Provide notice to Ecology at least annually of new development permits issued, indicating water source.
4. Support funding for a domestic water mitigation program.

III. Modification

This agreement has no expiration date. This Agreement may be modified by written consent of both signatories at any time during the term of the agreement.

IV. Termination

The parties may terminate this Agreement at any time by providing a 30-day written notice; EXCEPT where a fiscal emergency may require immediate termination.

V. Future Supplemental or Related Agreements

The parties recognize that supplemental or related agreements may be necessary to effectively and efficiently implement the Rule for East WRIA 18.

To the extent that either the County or Ecology are not signatories to these supplemental or related agreements, they are not bound to such supplemental or related agreements, nor may they be found liable for any violation or injury that may result from said supplemental or related agreements.

VI. Reservation of Authority

Nothing in this Agreement affects any authority Ecology may have to enforce the State of Washington's water resources laws including, but not limited to, RCW chapters 90.03, 90.14, 90.44, 90.54, or other appropriate requirements of state law. Nor do any of the provisions of this Agreement affect any authority the County may have to issue development permits that comply with the laws of the State of Washington.

Attachment A
 Rule area map from 173-518 WAC

