



AWB Board

Greg Ebe, Bertrand WID
Brad Rader, North Lynden WID
Jeff De Jong, South Lynden WID
Mike Boxx, Laurel WID
Marty Maberry, Drayton WID
Andy Enfield, Sumas WID

July 15, 2022

Mary Verner
Washington State Department of Ecology
Water Resources Program Manager
mary.verner@ecy.wa.gov

Dear Mary and Ecology Team:

We were shocked by the complete misunderstanding of our concerns reflected in your July 7th response to our June 16th letter. Our letter, following our May 25th discussion, centered on our concerns over the future of farming in Whatcom County. We emphatically conveyed our concern that Ecology is on a path that will most certainly make our challenge of maintaining a viable ag land base impossible. Yet you only heard that we don't want to incur legal expenses.

We fully realize that an adjudication would make Ecology's water right processing much clearer, but we still don't see you addressing our deep concerns over your process. The true cost of reaching your goal is dramatically outweighed by the consequences of an adjudication on our community. To truly answer those concerns, we ask that you address the following questions that arise from your letter:

- You claim you are committed to working with us to manage water and pursue viable legal options for addressing water supplies, yet your proposals over the past few years have focused solely on adjudication. Until only recently your staff remained opposed to collaborative discussions. While you now say you support collaborative work, what tangible evidence supports that statement? Furthermore, your previous actions to oppose collaboration may have negatively impacted others from supporting it, which has in turn led to stalled actions on collaboration. Where is the public support for Ecology's efforts? The vast majority of water rights holders oppose an adjudication, and yet Ecology appears to be proceeding forward.
- You have characterized our objections as being about the cost of an adjudication. But it should be noted that our letter didn't even speak to the financial costs of an adjudication. The uncertainty over ag water rights during and after an adjudication will inevitably force our farmers to make choices to convert our farmland to houses wherever possible, forever changing our community. This is already happening, and the filing of an adjudication without any hope of resolution will only intensify this dynamic.
- You claim you share our goal of protecting agriculture and rural lands in Whatcom County, and that you are committed to working with us. Yet you have made no visible effort to work on the collaborative solutions everyone recognizes are needed to find solutions for either farms, fish, or our communities. Far from this, your promotion solely of adjudication as a solution was and is at the direct expense of such opportunities. How can you make such a claim?

There are plenty of issues surrounding an adjudication you have simply not addressed. Your assurances of a quick, painless and efficient adjudication are not supported by the facts. You point out that litigation need not be acrimonious, yet you provide no pathway toward one that will not be. You note that adjudication is a companion piece to the community's efforts to address water resource needs, yet your efforts have hindered rather than helped any opportunity to do exactly that.

Ecology seems to hinge its argument about how adjudication will help farmers on the ability to make water right transfers and establish water banks. But we know, and you know, that after an adjudication there will be far fewer irrigation water rights available, and the quantity of water rights will be reduced – because of the application of relinquishment laws to all water rights in the adjudication. Ideas that have been discussed over how water might be made available – deep aquifer, upland storage, etc. – need to be more than just ideas for your adjudication to even have a chance at success.

Adjudication may also result in senior water rights for tribes that could be exercised against all junior water users and/or make Ecology's state instream flow water right enforceable. Ecology has said nothing about how these situations would be administered or enforced after an adjudication. In all other areas of Washington State the source of mitigation water to address senior water right impacts has most often been to transfer water out of irrigation use. The quantification of water rights will not secure water for agriculture – it will convert irrigation water rights to mitigation to protect urban and industrial users. We need far more from you on this all-important concern than a vague assurance that adjudication will be a positive for farmers.

Working with each other, rather than against, we can make positive contributions to natural resource management in Whatcom County. We have had a long and productive relationship with Ecology and have made many positive contributions together. We hope Ecology's recent decisions to move away from cooperation will be reversed soon. The Nooksack Basin needs leadership that brings water resource interests to the table, not processes that are divisive and harmful to collaborative efforts.

Let's quit sending each other letters and get to work.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Brad Rader', with a stylized initial 'B' and 'R'.

Brad Rader, President
Ag Water Board

cc: Governor Jay Inslee
William Jones Jr., Chair, Lummi Indian Business Council
Rosemary LaClair, Chair, Nooksack Tribal Council
Department of Ecology Director Laura Watson
Department of Agriculture Director Derek Sandison
State Senator Simon Sefzik
State Representative Sharon Shewmake
State Representative Alicia Rule
Whatcom County Executive Satpal Sidhu
Bellingham Mayor Seth Fleetwood
Whatcom PUD Commission President Atul Deshmane