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Contact Name: PAUL JEWELL

Contact Number: 509-962-7508

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COUNTY SEEKS REPEAL OF ECOLOGY GROUNDWATER MORATORIUM

ELLENSBURG, Wash. – Kittitas County Commissioners have requested the Governor repeal the Department of Ecology's 120-day moratorium on all groundwater withdrawals in Upper Kittitas County. Jay Manning, Director of Ecology, imposed the moratorium as an emergency rule on July 16, 2009. County Commissioners assert such an emergency, a requirement for the implementation of any rule without public comment, doesn't exist. Ecology contends that the moratorium is necessary to regulate what they characterize as a proliferation of new exempt wells.

According to Kittitas County Commissioner Mark McClain, "with only 41 wells drilled this year, it is clear an emergency does not exist." Commissioner Paul Jewell added, "Throughout this process we have asked that science direct decisions. Our hydrogeologist has indicated the cumulative effect of this number of wells is so insignificant it isn't even measurable. This is nothing more than a transparent strong arm tactic." In considering the County's appeal, the Governor is being asked whether an actual emergency exists, and not whether this or some other rule or water management strategy is necessary. "We are hopeful the Governor will show leadership in protecting individual citizens over the narrow interests of an overreaching state agency," included Commissioner McClain. "With the economy as it is we have seen very little growth, something that is dramatically different than when this process began," mentioned Commissioner Alan Crankovich. "With reduced activity, wells simply aren't being drilled like they were when this process started."

County Commissioners believe this moratorium action by the Department of Ecology is a veiled attempt to circumnavigate the open public process and enforce regulations of questionable legality. The original Memorandum of Agreement (MOA) outlining restrictions on exempt wells in Upper Kittitas County was signed by Ecology and County Commissioners in April 2008. Ecology requested that the County reopen negotiations of those restrictions earlier this year when the County submitted comments regarding the permanent rule Ecology was proposing to implement the MOA. At issue were statements and a belief by County Commissioners and Prosecutors that parts of the proposed rule were beyond the legal authority of Ecology or the County.

Since Ecology's request, Commissioners and county officials have been engaging in regular discussions about those concerns and other portions of the MOA and proposed rule. In an effort to

clear up the legal questions, Kittitas County Prosecutor Greg Zempel requested a formal opinion from the State Attorney General's office. Specifically, the request asked if Ecology or the County had the authority to enforce some of the restrictions that Ecology was demanding.

When notified by the county of the request for an Attorney General Opinion, Ecology expressed concern and stated in an open meeting that they (Ecology) would be "better off imposing a moratorium" than wait and receive an unfavorable opinion from the State Attorney General about the legality of their proposed rule. Their concern, according to Commissioner Alan Crankovich, was not only the status of their negotiations with Kittitas County, but also the effect the "opinion could have on existing agreements with four other counties." "I don't understand," commented Commissioner Paul Jewell, "why Ecology is not interested in making sure they are properly following the laws as passed by our elected representatives?" Added Commissioner Mark McClain, "Ecology indicated that our request for an Attorney General Opinion caused them great concern and that it was more advantageous for them to force a moratorium if the county would not agree to withdraw the question. As an attorney I can appreciate advocating for your client, but here our clients are the citizens of the state and as such we should be more concerned with following the law and not with pushing some political agenda."

The county continues to assert the announcement last week by Ecology that they were imposing an emergency moratorium came as a surprise. "While I disagree with Ecology's decision to impose a moratorium, especially while we were still in active negotiations, my stance remains that a moratorium would have a devastating result and I remain, as I have from the beginning, committed to reaching a reasonable solution," said Commissioner Crankovich. "One constituent indicated that the sale of his property has been held up. This might not be such a big deal for some, but for him it means he won't be able to pay for his wife's medical treatments," Commissioner Jewell added.

While seeking intervention from the Governor, County Commissioners will be contacting Ecology for continued talks in an effort to come together on issues that the county describes as "minor". "I don't believe Ecology fully considered the consequences of this decision. There are real people in our county who are caught up in this thing as innocent victims" said Commissioner Crankovich. Added Commissioner Mark McClain, "While I find it challenging to consider further negotiation with Ecology as it was Ecology who pulled away from this agreement, we believe that as public servants we have an obligation to seek all available remedies."

While no date has yet been set for a meeting with Ecology, Commissioners indicated the Governor has seven days to respond to the repeal request.

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