Board of County Commissioners
CDS Director Meeting
Minutes

DATE: February 9, 2004

TIME: 1:30

COMMISSIONERS PRESENT: Max Golladay, Bruce Coe and Perry Huston

THOSE PRESENT: David Taylor, Allison Kimball and Catherine Dunn

OTHERS PRESENT: Jim Hurson, Pat Deneen, Steve Lathrop and Dave Duncan

ATTACHMENTS: None

TOPICS:

1. Exempt Wells

2. Legislative Issues

DISCUSSION:

1. Huston said this discussion boils down to the fact that we know they have to prove water availability. The Questions are: Do they have to demonstrate a legal proof of potable water? Can we condition a plat or put a disclaimer in the notes which says that the hydrology report says there is sufficient water but DOE may not permit wells?

Hurson said that the County’s obligation is to make adequate provision for potable water. Huston asked if a disclaimer would protect the county. Hurson didn’t think it would. Golladay said that since the Dept of Ecology was the permitting agency, he felt that the county would not be liable. He said that the County has provided due diligence by requiring the hydrology report.

Deneen said that the Campbell-Gwinn case says that the developer cannot drill 24 wells on a long plat, but that the DOE is allowing the owner of each lot to drill a well. He said that we do not want to bring water rights into the picture as it opens the door for all sorts of water right questions

Huston asked where the Hillis case fit into this and Deneen replied that the Hillis case allowed for two lines for water rights cases and is different from the exempt well discussion.

Hurson expressed concern for the County if the platting continues under the current county regulations. He suggested that the Board
take this policy decision through the Planning Commission with a public hearing and before the Board in agenda session. It was his opinion that the County had greater liability protection this way.

Deneen asked if any individuals in Kittitas County had been denied an exempt well by the Department of Ecology. It was his opinion that DOE would not deny a well to an individual.

Taylor said that the written policy was wrong, it was developed in a study session and later it was determined that the well drilled for the development approval would be considered the one exempt well by the DOE.

Coe said that the County’s responsibility is to assure adequate provision for potable water. We rely on hydrologists to provide us with documentation of potable water but we are not guaranteeing adequate water to every lot forever.

Coe said that he felt strongly that DOE will not go onto lots and deny people a well. They don’t want to open that can or worms, he said.

After more discussion of water systems, discussion moved on to the existing policy and the manner to be used to change it. Huston wanted to have the change in an agenda session, and Coe didn’t want to see it go through the Planning Commission.

Lathrop was surprised that the county would want to give the DOE an opportunity to appeal this policy and potentially challenge all platting.

After the discussion ended and the additional people left, Taylor wondered why the attorney who works for the County placed a condition on a resolution which is not supported by the record and didn’t tell anyone about it. Coe agreed that it was a good point.

2. Legislative Issues –

Taylor reported that there was not much to report on the legislature. The bill of interest is the stockwater and exempt wells bill (SB 6486). He reported significant movement to fix the stockwater bill. Huston said that there may be some need for the Board’s attention in the future.
The instream flow bill (SHB 2396) had been substituted and passed out of the Agriculture Committee and made exempt from the cut off. Taylor said that he was confident that it would die in the Senate.

SB 6734 relinquishment bill is also exempted from cut off. Taylor said that he thought these two bills would be tied together.

ACTION:

1. Huston said to run the policy through the open public process at the Board of Commissioner level, make a record and change the policy. He said to set a public hearing on Feb 17 for March 2, 2004 to change the administrative policy on water availability.

2. Huston said to monitor the bills (SHB 2396, Instream Flow and SSB 6734, Relinquishment) and if they go to the Floor the whole Board will press for these.