

PUBLIC TESTIMONY by Douglas Ryder

HAPPY TRAILS DEVELOPMENT: FILE P-06-38

My wife, daughter and I live on a 3.57 acre parcel at 1535 Kittitas Highway. Our concerns with this development mirror those listed in testimony provided by our neighbors.

First and foremost our concern is water. Water for domestic use and water for irrigation.

Domestic Water Concerns

Our property and the property of our neighbors are served by existing individual wells. The large agricultural field north of us that was previously irrigated is being developed as 1 acre residential lots. In a nutshell the agricultural activity that used to recharge the aquifer has ceased and new wells have been drilled that will draw water from the existing aquifer. In addition we are concerned that water will be drawn from the aquifer by owners of these new lots and used for irrigation. Our fear is that our well will run dry. If this happens we'd be placed in the position that we would need to seek a remedy from the county.

Irrigation Concerns

Our property and the property of our neighbors are served by an existing underground irrigation pipe that runs through the Happy Trails development. Work in the first of this series of three residential developments damaged our irrigation pipe and since repairs were made by the developer the volume of water we receive has noticeably reduced. Our property is at the end of this irrigation line and we now find what was once an adequate water supply is at times a trickle.

With our property we are shareholders in the Ellensburg Water Company with pre-1917 water rights. Each of our neighboring properties exceeds 3 acres. Neighbors have livestock and pets and agricultural activities dependant upon irrigation. As downgradient water owners Section 16 of the County Code delineates the following easement rights and duty for the developer to provide a water delivery system.

16.18.030 Parcel creation- Irrigation water delivery system requirements.

Any parcel creation proposed for land served by or crossed by an irrigation entity shall provide a water delivery system together with rights-of-way to each lot created by the parcel creation with an irrigation right. The parcel creation shall also provide for easements or rights-of-way from the water source to the water delivery system. A drawing shall be submitted showing elevations, the location of lots and the location of the proposed water delivery system. Such systems shall not impair the rights or uses of downgradient water owners or users. The downgradient irrigation water users shall be considered and consulted in preparing the design of the proposed water delivery system. The Director shall refer such proposed parcel creation to the irrigation entity or entities which will furnish water to the parcel creation, and the Director shall take into consideration any comments made by the irrigation entity concerning the proposed water delivery system.

The applicant/land owner shall certify whether an apparent or recorded right-of-way or easement is located on the property proposed for parcel creation. If there is an apparent or recorded right-of-way or easement located on the subject property, the applicant/land owner shall provide the County with the name and address of the right-of-way or easement owner. (Ord. 2005-31, 2005)

To mitigate these concerns, we ask that:

- **Our existing water supply be identified by a formal easement recorded on each affected lot.**
- **Adequate irrigation be provided to each of the new lots to assure that property owners do not irrigate from their community well. A shared easement and a larger/ shared; adequately sized irrigation line would be acceptable if approved by the Ellensburg Water Company. Section 16 of the County Code requires that we as downgradient users are "considered and consulted" with regard to the proposed water delivery system.**
- **The new "Group B" community well system be metered and required to follow log maintenance requirements.**

TESTIMONY

HAPPY TRAILS DEVELOPMENT: FILE P-06-38
COMMISSIONERS AUDITORIUM
KITTITAS COUNTY COURTHOUSE
TUESDAY, NOVEMBER 27, 2007 6:30 P.M.

by

Jimmie R. Applegate
1511 Kittitas Highway
Ellensburg, WA. 98926
(509) 925-4362 japple@elltel.net

Good Evening Chairman Black and Members of the Kittitas County
Planning Commission:

I am Jimmie R. Applegate and my wife, Sabine, and I reside at 1511 Kittitas
Highway, just South of the proposed Happy Trails 9-lot plat on 14.57 acres.

I am speaking on behalf of my wife, Sabine.

Thank you for hearing our testimony.

Since our testimony is all about water, I'll begin with two quotations about
water and conclude with one. The first quotation will take you back to high
school and is from the Rime of the Ancient Mariner penned by Samuel
Taylor Coleridge in 1798:

“Water, water every where
And all the boards did shrink,
Water, water every where
Nor any drop to drink”

And Benjamin Franklin wrote in the 1746 issue of Poor Richard's Almanac:

“When the well’s dry, we know the worth of water”

Sabine and I call your attention to the Minutes of Special Meeting of Board of Trustees of Ellensburg Water Company dated April 20, 2007. A copy is attached. This document contains nineteen rules and regulations governing the review and approval of all divisions of properties; i.e., plats, subdivisions, etc. Items #7, #9 and #14 are critical to our testimony. Item #7 states that pursuant to Kittitas County Code 16 “no sub-divisions will be approved which interferes with the delivery of irrigation water to other assessed lands within the Ellensburg Water Company service area”. Item #9C states “Pursuant to RCW 16.03.420 it is unlawful to place or maintain any obstruction that shall interfere with or prevent convenient unobstructed access thereto or trespass thereon”. This item refers to access to easements such as the easement, in our situation, for our 4” irrigation water supply line. Item #14 requires “....completed irrigation water distribution facilities for lands within its boundaries as a condition for approval of the division of property, subdivision, short plat or final plat by the legislative authority of any City, Town or County”.

We are concerned about two of the mitigation items listed in the SEPA MITIGATED DETERMINATION OF NONSIGNIFICANCE. We are concerned specifically about item 1c. We agree that the Group B water system should be installed prior to final plat approval and that the system should be tested to demonstrate there is an “adequate water supply to support the proposed use”. However given the two Group B wells recently dug on the MD Jackson Grasslands Park development directly to the North, the Group B well recently dug for the Turf Trails plat and surely for the fourth Group B well to be dug for the Happy Trails plat, we believe you should be concerned not only with “adequate” water for the plat, but about the impact on existing wells and systems drawing from the same aquifer. According to Commissioner David Bowen as reported in the October 6, 2007 issue of the Ellensburg Daily Record, in November, 2005 the Kittitas County Commissioners directed staff to consider the cumulative impacts of adjacent and neighboring projects per WAC 197-11. We assume staff has done so in the case of the Happy Trails proposal, found and declared that there will be no adverse impact. If not, we ask you to add language to item 1c that the developer must demonstrate as well that the water for the Happy

Trails plat will not result in a diminished supply of potable water for other wells and systems in the immediate area.

Also it is not clear to us how Mitigation Measure 1d, "The Group B water system cannot be used for irrigation purposes" can, or will be, enforced. Does this item mean that no water from the Group B water system can be used to water lawns and pastures? If so, as a condition of approval we recommend language be added to the mitigation measures to ensure this requirement is attached to titles, deeds and associated restrictive covenants.

Six families draw irrigation water for approximately 20 acres from a 4" buried irrigation water line that runs East of the irrigation ditch from a gated weir on the Town Ditch South to near the Kittitas Highway. This buried 4" line was broken at least 5 times during the development of the MD Jackson Grasslands Park plat and the subsequent construction of homes, out-buildings, ponds and landscaping. And each time our pumps and system would be clogged with debris and our lawns and pastures would die back. The system cannot take too many more shocks before we have major difficulties with it. Should we have to utilize the legal utility and irrigation easement access we have to go in with a backhoe to dig up established lawns, fences and even out-buildings, owners will be angry, and rightly so.

Sabine and I request the developers of the plat move the 4" buried line to the West off any portion of the subject property, or that we be expressly granted a permanent deeded access and maintenance easement, to protect our investment now and in the future. Moving the line is our preferred option and would, at the same time, protect future homeowners from the potential of backhoe work in their back yards. It is our understanding that, unless it is specifically required deeds do not carry easements. If this is so, how do prospective property owners know that there is an easement through their back yards if they do not read the Title Insurance document? How does the prospective property owner know we have unrestricted access to repair or improve our extant irrigation water supply line? And how does the prospective property owner know they are liable, and can be billed for, any damages caused to the irrigation water supply line during building construction, landscaping or other improvements? According to Ellensburg Water Company rules and regulations, Kittitas County Code, the Revised Code of Washington 90.03.420 and 430 and Western Water Rights Law we have that authorization. A copy of the RCW is attached.

Our first, and much preferred option is that you add the requirement to move the 4" buried irrigation water supply line to the West off the subject property and replace it with 100 lb twin seal IPS PVS. This option is by far the best for all concerned. Our second, but much less desirable and certainly less attractive to future property owners, option is that you require we be expressly granted a Non Exclusive Easement for access to, and maintenance of, our irrigation line to ensure we have open and unrestricted access using today's technology as an additional condition for approval of the plat. Suggested wording for the Irrigation Line Access and Maintenance Easement is: "The Grantor (Tall Brothers LLC) does hereby give, grant and convey unto the Grantees (Applegate, Clark, Gunderson, Kaila, Hansen and Ryder), their successors and assigns forever, a 25 foot irrigation line maintenance and access easement that provides at all times the right to enter said easement for the purposes of reconstructing, modifying, altering, maintaining, repairing, operating, monitoring and inspecting the irrigation pipe within said easement and right of way under, across and over the property of the Grantor as particularly described"

To summarize we request the following:

1. We ask you to add language to item 1c that the developer must demonstrate that Group B well/s supplying the potable water for the Happy Trails plat will not result in a diminished supply of potable water for other wells and systems in the immediate area as a condition for approval.
2. We recommend language be added to the mitigation measures to ensure the language in Mitigation measure 1d is attached to titles, deeds and associated restrictive covenants as a condition of approval.
3. We request language be added to the Mitigation Measures that the developers of the plat move the 4" buried irrigation line, or that you require an expressly granted Non-Exclusive Access and Maintenance Easement for the extant irrigation line, to provide open and unrestricted access as a condition of approval.
4. We request we be notified officially should any changes be made to the proposed plat, including any future activity on Lot 5.

Thank you for your serious consideration of our recommendations. We ask that you act favorably on them.

I will conclude with this modification of Coleridge's lines from the Rime of the Ancient Mariner:

“Water, water every where
And all the grass turned gray.
Water, water every where
Nor any drop to spray”

Attached: Ellensburg Water Company Special Minutes
RCW 90.03.420 and 430

MINUTES OF SPECIAL MEETING OF BOARD OF TRUSTEES OF ELLENSBURG WATER COMPANY

A special meeting of the Board of Trustees was held on April 20, 2007. Present were Board members, Pat Clerf, Ron Poulsen, Kevin Eslinger, Ron Gibb, and Superintendent Larry Browne. All present acknowledged receiving sufficient notice of the meeting and waived any requirement that an agenda be given in advance.

The first order of business was to consider changing the rules and regulations governing the division of property, it coming to the attention of the Ellensburg Water Company ("the Company" or "Company") that an individual(s) was attempting to bypass the intent of the necessary rules by circumventing the requirements that segregations and changes in property first be approved by the Company to protect its water interests and the sufficient ability to serve its shareholders, and to promote conservation, without increasing costs, maintenance and operations. Following discussion, the following resolution was adopted by a unanimous vote of the Trustees:

WHEREAS, the Trustees have the responsibility for exercising the corporate powers, business and property of the Company in the best interests of all of the shareholders, to ensure the delivery of water in the most cost efficient manner, and to adopt appropriate rules for the distribution of water to meet their purposes, it is hereby

RESOLVED: That the following rules and regulations shall govern review and approval of all divisions of properties: For purposes of this resolution a "division of property" or "divided property" is defined as: all plats, subdivisions, exempt segregation, boundary line changes or adjustments, any development or change to existing agricultural land use, or any change of any other kind that may affect the delivery of water in any manner whatsoever to the lands of Ellensburg Water Company:

1. All divisions of property will be reviewed by the Company, and approval granted on a case by case basis.
2. Pursuant to Kittitas County Code 16.18.040, for all divisions of properties, the landowners shall appoint an irrigation association representative who shall act on behalf of, and be the representative of the properties within the irrigation association. The irrigation association representative shall be the contact to the irrigation company in all matters concerning the delivery of water from the irrigation company to the divided properties including, but not limited to, making arrangements for the delivery of water, coordinating water use between lot owners, and generally attending to all matters having to do with the water delivery. The irrigation association representative must reside on, and own land within the boundaries of the irrigation association and divided property.
3. Without limiting the generality of the foregoing, the irrigation representative shall be the only one responsible for ordering water for the entire association and respective properties. The Company shall only be responsible for keeping records on the total water delivered to the Company turnout.

4. The requirements for the appointment of an irrigation representative shall be stated on the face of the plat or other similar document filed with the County and the Company.

5. The Company shares shall be in the name of the irrigation association on behalf of the individual landowners, who shall appoint an irrigation representative for the divided properties. In most instances, the irrigation representative shall be a non-profit corporate water users association. For all lands served by the Company, there shall be $\frac{3}{4}$ share per acre. Copies of all organizational documents, bylaws, and regulations of the association shall be provided to the Company.

6. Following any construction, The Company shall only be responsible for maintenance and delivery of water to the designated turnout or headgate, at or in the Company main canal. The turnout or headgate is defined as the structure(s) required to divert and measure water from the existing Company distribution system at the main canal. Following construction, the irrigation association or property landowners shall be responsible for the maintenance of all parts of the distribution system beyond the Company's main canal easement or right of way.

7. It is further resolved that the division of property will be approved by the Board of Directors of the Ellensburg Water Company if it complies with state, county, city and Ellensburg Water Company regulations and does not impose upon the Company any expense over and above that which existed before any proposed subdivision. No subdivision will be approved which interferes with the delivery of irrigation water to other assessed lands within the Ellensburg Water Company service area. Pursuant to Kittitas County Code 16.18.030, the landowners within the property to be divided shall provide and maintain completed irrigation water distribution facilities, irrigation water rights of way for each lot, tract or parcel of land created by the plat. The irrigation water rights of way shall run from the Company main canal to each lot, tract, segment, and parcel.


8. General Specifications Right of Ways:

A. Prior to approval, all short plats or other divisions of property that are submitted to the Ellensburg Water Company will describe in written form all Company right of ways, and will also submit a detailed map showing all Company right of ways.

9. The developer has to show the right of ways or written easements not only on the property being developed but also on lands that lie between or below the property being developed, and the irrigation Company main canal. Minimum Company requirements are:

A. 10' easements on all exterior lot lines.

B. 5' both sides of all interior lot lines.

 C. Pursuant to RCW 16.03.420 it is unlawful to place or maintain any obstruction that shall interfere with or prevent convenient unobstructed access thereto or trespass thereon.

10. The plat drawing must show the amount of irrigable acreage of each parcel within the subdivision and contain a statement that company water may only be applied to the irrigable acreage consistent with the number of shares for the properties and the water rights of the Company. The delivery of all water is subject to the rules, regulation and by-laws of the Ellensburg Water Company.

11. The face of the plat must state: Ellensburg Water Company operations and maintenance roads are for Company use only. All other uses, including residential and recreational use is prohibited.

12. Any developer and/or owner seeking to subdivide will conduct any tests for groundwater and septic systems during the irrigation season. The developer and/or owner will correct any existing water problems at his or her own expense and shall hold Ellensburg Water Company harmless against any and all claim based thereon. NOTE

13. This resolution is not intended to cover every item and specification for the division of properties within Company boundaries. The Company may also require additional or different specifications of the developer, as may be necessary to any particular division of property, development, or project, to meet the needs of the Company and its shareholders.

14. IT IS FURTHER RESOLVED that the Ellensburg Water Company will require completed irrigation water distribution facilities for lands within its boundaries as a condition for approval of the division of property, subdivision, short subdivision, lot, tract, parcel, site, short plat or final plat by the legislative authority of any City, Town or County. Such distribution facilities must meet the Company's prescribed specifications. No division of property shall be approved within the boundary of the Ellensburg Water Company without first obtaining certification from officials of the Ellensburg Water Company that the requirements set forth have been met. NOTE

15. IT IS FURTHER RESOLVED that any failure to obtain the necessary approvals from the governmental authority or the Company does not waive or nullify the requirements of this resolution. Any failure of the developers and landowners to comply with these requirements will result in the immediate termination of the delivery of water until such time that the developer or landowners to come into full compliance with this resolution at their costs and at the sole discretion of the Company. Any failure to obtain the necessary approval of the governmental authority or the Company will result in the developer or landowners of the newly divided property being responsible for all costs of any kind to the Company to bring the divided property into compliance with this Resolution.

16. IT IS FURTHER RESOLVED that irrigation distribution facilities shall be provided and installed as required by the irrigation Company serving the land in the proposed division of property or plat. The irrigation Company requires the irrigation distribution system to include pipes of proper size to convey and carry water through or by a concealed, pressurized, and buried conveyance system. Water will be conveyed in this manner, throughout the system, from the irrigation Company's main canal and headgate to the newly divided properties regardless of distance. The Company board of trustees will determine the location of the point of diversion, headgate, or turnout for said development or division of property. If an agricultural irrigation system is in existence, or was historically in existence, a new separate and distinct system shall be installed from the Company main canal, headgate, or turnout, to each parcel within said development or division of property.

17. The proposed diversion and system shall also meet all screening and other specifications as required by the Company, or other federal, state, or local regulations.

18. Pursuant to Kittitas County Code 16.18.060 the following specifications are adopted:

The purpose of this article is to provide for water conservation and to improve surface and ground water quality by diminishing the amount of surface water interfering with operation of septic tanks and wells on residential property. Divisions of property where the size of any parcel or lot is three acres or less shall be irrigated by either a sprinkler irrigation system or drip system. The following definition shall apply. A sprinkler irrigation system means a system for delivery of water to the land from the Company main canal to each parcel or lot whereby irrigation is ultimately achieved by the piping of all water through a sprinkling device that has the effect of distributing the water to the land surface in small scattered droplets in a rain like manner.

19. IT IS FURTHER RESOLVED that water features such as ponds, fish or koi ponds, swimming ponds, fountains, waterfalls, dams, obstructions, acclimation pools, moats, or any other aesthetic value water features or uses are not currently authorized uses of Company water and are prohibited.

Thereafter, there being no further business, the meeting was adjourned.

DATED this 20th day of April, 2007.

_____, Secretary

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Library References

Waters and Water Courses ¶145.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 188, 189.

Notes of Decisions

In general 1

1. In general

Where decree apportionments waters of stream to various tracts on percentage basis, adoption of rotation plan does not entitle lower owner to have pond on land of upper owner completely drained on days he is allowed to use water, when only overflow joins stream, where pond

is filled from upper owner's share of water. *Osborn v. Chase* (1922) 119 Wash. 476, 205 P. 844.

Where waters of stream have been apportioned by decree of court on percentage basis, hydraulic engineer can only enforce decree and cannot order rotation plan conflicting with percentages. *Osborn v. Chase* (1922) 119 Wash. 476, 205 P. 844.

90.03.400. Crimes against water code—Unauthorized use of water

The unauthorized use of water to which another person is entitled or the wilful or negligent waste of water to the detriment of another, shall be a misdemeanor. The possession or use of water without legal right shall be prima facie evidence of the guilt of the person using it. It shall also be a misdemeanor to use, store or divert any water until after the issuance of permit to appropriate such water.

Enacted by Laws 1917, ch. 117, § 40.

Source:

RRS § 7392.
Former § 90.32.010.

Historical and Statutory Notes

Cross References

Diversion certificate, see § 90.03.240.
Effective date of water right, see § 90.03.340.
Punishment of misdemeanor when not fixed by statute, see § 9.92.030.

Library References

Waters and Water Courses ¶212, 266.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 313, 368.

thereon.

Enacted by Laws 1917,

Notes of Decisions

In general 1

1. In general

Owner not made party to adjudication of rights on stream must seek his reme-

dy under code and cannot take law into his own hands by acts violative of positive provisions of code making such acts misdemeanor. *State v. Lawrence* (1931) 165 Wash. 508, 6 P.2d 363.

90.03.410. Crimes against water code—Interference with works—Wrongful use of water—Property destruction—Penalty

(1) Any person or persons who shall wilfully interfere with, or injure or destroy any dam, dike, headgate, weir, canal or reservoir, flume or other structure or appliance for the diversion, carriage, storage, apportionment or measurement of water for irrigation, reclamation, power or other beneficial uses, or who shall wilfully use or conduct water into or through his ditch, which has been lawfully denied him by the water master or other competent authority, or shall wilfully injure or destroy any telegraph, telephone or electric transmission line, or any other property owned, occupied or controlled by any person, association, or corporation, or by the United States and used in connection with said beneficial use of water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in RCW 9.61.070.1

(2) Any person or persons who shall wilfully or unlawfully take or use water, or conduct the same into his ditch or to his land, or land occupied by him, and for such purpose shall cut, dig, break down or open any headgate, bank, embankment, canal or reservoir, flume or conduit, or interfere with, injure or destroy any weir, measuring box or other appliance for the apportionment and measurement of water, or unlawfully take or cause to run or pour out of such structure or appliance any water, shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in RCW 9.61.070.

(3) The use of water through such structure or structures, appliance or appliances hereinbefore named after its or their having been interfered with, injured or destroyed, shall be prima facie evidence of the guilt of the person using it.

Enacted by Laws 1917, ch. 117, § 41. Amended by Laws 1921, ch. 103, § 2; Laws 1971, Ex.Sess., ch. 152, § 8.

1. *Reviser's Note:* RCW 9.61.070 was repealed [by Laws 1975, 1st Ex.Sess., ch. 260,

Historical and Statutory Notes

Laws 1971, Ex.Sess., ch. 152, § 8, in the last sentence of subsecs. (1) and (2), added "or, if there is actual physical injury to or destruction of any real or personal property, or property destruction and shall incur the penalties set forth in RCW 9.61.070".

Source:

RRS § 7393.
Former § 90.32.020.

Cross References

Diversion certificate, see § 90.03.240.
Effective date of water right, see § 90.03.340.
Punishment, see § 9.92.030.
Water right certificate, see § 90.03.330.

Library References

Waters and Water Courses ¶212, 266.
WESTLAW Topic No. 405.
C.J.S. Waters §§ 313, 368.

Notes of Decisions

In general 1
Sufficiency of pleadings 2

1. In general

Former statute providing for punishment of persons who should willfully or maliciously make any aperture in "any milldam, canal, flume, aqueduct, reservoir, embankment or other structure erected to conduct water for agricultural purposes," included dam erected for storing and conducting water for irrigation purposes. State v. Tiffany (1906) 44 Wash. 602, 87 P. 932.

2. Sufficiency of pleadings

Complaint for interfering with dam and headgate for diversion of water in stream on which rights have been adjudicated is sufficient when substantially

in language of this statute. State v. Lawrence (1931) 165 Wash. 508, 6 P.2d 363.

In prosecution under former statute providing that every person who should "willfully or maliciously" cause any aperture in any structure erected to conduct water for agricultural purposes should be punished, information was sufficient which charged that act complained of was committed "unlawfully and willfully." State v. Tiffany (1906) 44 Wash. 602, 87 P. 932.

Information was sufficient which charged that structure was erected to conduct water for "irrigation purposes," under former statute providing for punishment of persons causing to be made any aperture in any structure erected to conduct water for "agricultural purposes." State v. Tiffany (1906) 44 Wash. 602, 87 P. 932.

90.03.420. Crimes against water code—Obstruction of right of way

Whenever any appropriator of water has the lawful right of way for the storage, diversion, or carriage of water, it shall be unlawful to place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto or trespass thereon.

Historical and Statutory Notes

Source:

RRS § 7394.
Former § 90.32.030.

Cross References

Dams across streams, see § 90.28.170.
Limitation of ditches across land, see § 90.28.040.
Relocation, see § 90.28.020.
Right-of-way to wells, see § 90.36.010.

Library References

Waters and Water Courses ¶266.
WESTLAW Topic No. 405.
C.J.S. Waters § 368.

*** 90.03.430. Partnership ditches—Action for reimbursement for work done**

In all cases where irrigating ditches are owned by two or more persons and one or more of such persons shall fail or neglect to do his, her or their proportionate share of the work necessary for the proper maintenance and operation of such ditch or ditches or to construct suitable headgates or measuring devices at the points where water is diverted from the main ditch, such owner or owners desiring the performance of such work as is reasonably necessary to maintain the ditch, may, after having given ten days' written notice to such owner or owners who have failed to perform his, her or their proportionate share of such work, necessary for the operation and maintenance of said ditch or ditches, perform his, her or their share of such work, and recover therefor from such person or persons so failing to perform his, her or their share of such work in any court having jurisdiction of the matter the expense or value of such work or labor so performed: *Provided*, That no improvement involving an expenditure in excess of one hundred dollars shall be made without the written approval of the department having first been obtained.

Enacted by Laws 1919, ch. 71, § 3. Amended by Laws 1987, ch. 109, § 96.

Historical and Statutory Notes

Laws 1987, ch. 109, § 96, in the last sentence, substituted "department" for "supervisor of water resources".

Source:

RRS § 7395.
Former § 90.28.110.

Purpose—Short title—Construction—Rule—Severability—Captions—Laws

Cross References

ELLENSBURG WATER COMPANY

P.O. Box 982 • Ellensburg, WA 98926
Mobile Phone 509 925-5498

November 8, 2007

Mr. David Black, Chairman
Kittitas County Planning Commission
Ellensburg, WA. 98926

Dear Mr. Black:

I am writing in reference to the Happy Trails plat the Kittitas County Planning Commission will consider on November 27, 2007.

Six Ellensburg Water Company shareholders irrigate their parcels with water from a buried 4" irrigation line that runs North-South from a weir on the canal along the East side of an irrigation ditch to near the Kittitas Highway. I am concerned about the disruption of neighborhood backyards in the MD Jackson Grasslands Park development and in the proposed Happy Trails plat should it be necessary for those using the 4" line for their irrigation water to access the buried line for maintenance or repair which according to RCW 90.03.410, RCW 90.03.420 and RCW 90.03.430 they have every right to do. Western Water Right Law also guarantees them that right. Two options could be used to mitigate this potential problem.

The first and preferred option is to move the buried line to the West off the MD Jackson Grasslands Park and the Happy Trail plat parcels to provide Ellensburg Water Company shareholders "...the use of the works (their 4" buried irrigation line)...convenient access thereto or trespass thereon" (See RCW 90.03.420). You might recall that I recommended this be done when the MD Jackson plat immediately to the North was under review. Had my recommendation been followed at that time we would not have the intolerable situation we have today. Property owners have constructed fences, landscaped gardens, dug ponds, installed irrigation systems, and even built outbuildings in the easement thus blocking Ellensburg Water Company shareholders access. Not only is this intolerable; it is illegal. I am willing to work with the shareholders and the developers to locate an acceptable area for the buried irrigation line that should be replaced with 100 lb twin seal IPS PVC pipe.

A second, but much less desirable and in the long run perhaps even unworkable, option is that a permanent Non-Exclusive Maintenance and Access Easement be expressly granted