

**Wastewater Treatment Division**

Department of Natural Resources and Parks  
King Street Center  
201 South Jackson Street  
Seattle, WA 98104-3855

May 29, 2007

The Honorable Gordon E. Hungar, Commissioner  
Lake Forest Park Water District  
4029 N.E. 178th Street  
Lake Forest Park, WA 98155

Re: Brightwater Mitigation

Dear Commissioner Hungar:

Thank you for your letter dated April 14, 2007. I was disappointed by Lake Forest Park Water District's unwillingness to address the concerns outlined in my prior letter. We sincerely propose that King County and Lake Forest Park Water District ("District") work together so that reasonable and timely progress will be maintained in implementing the Mitigation Agreement prior to the start of the Brightwater tunneling operations near the District's well field area.

The 2004 Memorandum of Agreement regarding Mitigation for the Brightwater Project (the "Agreement") was premised upon a number of factors which have turned out to be not true. First, for example, as set forth below, the District misrepresented the authorized withdrawal limits and locations under its existing water rights and the status of those existing water rights.<sup>1</sup> And second, as another example, the Agreement was premised upon the ability to drill a new well within the District or to create an emergency intertie; it was never contemplated or agreed that the County would develop a new water system for the District.

The Agreement states that as a possible mitigation measure the County would drill and develop a new deep well water source unless that mitigation measure is technically or legally infeasible in which case the County would create an intertie for the District to receive water from Seattle Public Utilities (SPU). As documented in my previous letter dated March 9, 2007 and as set forth herein, the development of a new deep well water source is both technically and legally infeasible. The County is prepared to either develop a new interim intertie or to provide funds for the District to develop such an intertie with SPU.

1. Construction of An Out-of District "Replacement" Well is Beyond the Terms of the Agreement

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<sup>1</sup> See footnote no. 3.

The County has continually been asked by the District to pursue alternatives for a permanent water supply replacement plan which are outside of the Agreement. The District's insistence, reiterated in the District's recent letter, that the County drill and develop a "replacement" well water source outside of the District is beyond the terms of the Agreement, violates the State Local Government Accounting Statute (RCW 43.09.210) and is commercially impractical. To clarify so there is no misunderstanding, no County employee is authorized to agree to such a fundamental contract change without the express authority from the King County Executive and King County Council, which have not been given.

The Agreement provides only for possible construction of a well inside or in close proximity to the District. No such well sites have been found. The Agreement and the authorizing legislation from the King County Council do not provide for the construction of an out-of-District replacement well system requiring several miles of transmission pipelines at a cost of potentially several million dollars. The Agreement provides only for "ancillary piping" not miles of transmission mains through streets and private properties.<sup>2</sup>

2. Due to Deficiencies with the District's Existing Water Rights, Ecology Review of a new in-District Well Source (if one could be found) would be Untimely and Uncertain

The County is convinced that because of the numerous concerns associated with the District's existing water rights, the process required by Ecology even for an in-District replacement well source (if one could be found) cannot be completed in time for the Brightwater tunnel construction. The location of any "replacement well" outside of the District's existing well field will require a formal, as opposed to an administrative, change process to the existing water rights. The formal change process will take at least six months to one year according to Ecology. We believe that it will take Ecology much longer than one-year to process any change request due to all the deficiencies in the District's current water rights.<sup>3</sup> These deficiencies will need to be addressed during Ecology's formal review process. Obviously, the resolution of all of these existing issues is beyond the scope of the Agreement. Nonetheless, the resolution of these issues will significantly delay the formal review process beyond the start of the Brightwater tunnel construction.

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<sup>2</sup> Transmission main costs on the order of millions of dollars -- three to five times the cost of the well itself cannot be construed as "ancillary piping."

<sup>3</sup> According to the County's review of the water rights files maintained and provided by Ecology, there appears to be multiple inconsistencies between the District's actual water rights and the manner in which they are portrayed in the District's current Comprehensive Water System Plan. For example, according to Ecology's files, the points of withdrawal for the District's current wells are different from their authorized locations and there are no documented water rights or claims for any District withdrawals from artesian wells in the east watershed. Any purported surface water rights in the west watershed have likely been relinquished from non-use. And there are no water rights authorizing Well No.4 as an alternate or backup source of supply. The District's maximum instantaneous withdrawal is limited by Ecology to 540 gpm, an amount far lower than what the District portrays as its water rights in the District's current Comprehensive Water System Plan.

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For all of these reasons and for the reasons set forth in my prior correspondence, a "replacement" well source, as a possible mitigation measure, is technically and legally infeasible. As set forth in the Agreement, the County believes that an interim, emergency water supply can be obtained to address an emergency intertie. The County once again suggests that a meeting with the representatives and commissioners of the District will help to allow timely resolution to these issues and thereby furthering the interests of both parties. Please call Gunars Sreibers directly at 206-296-1474 with a time for us to meet.

Sincerely,

Christie J. True  
Director

cc: Verna Bromley, King County Prosecuting Attorney, Civil Division  
Gunars K. Sreibers, Acting Managing Supervisor, Brightwater Capital  
Projects, Wastewater Treatment Division (WTD), Department of Natural Resources  
and Parks (DNRP)  
Bob Peterson, Capital Projects Manager, WTD, DNRP