

April 21, 2008

**THE BOARD OF
BENTON COUNTY
COMMISSIONERS
AGENDA PACKET**

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
April 14, 2008, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Claude Oliver
Commissioner Max E. Benitz, Jr.
Commissioner Leo Bowman
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County Employees Present: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Tammy DeFault, Personnel, Steve Becken, Larry Moser, Norm Childress, Bryan Thorp, and Ross Dunfee, Public Works; Mike Shuttleworth, Planning Manager; DPA Ryan Brown; and Marianne Ophardt, WSU Cooperative Extension.

Approval of Minutes

The Minutes of April 7, 2008 were approved.

Review Agenda

Consent Agenda item "b" (Lease Agreement w/Rada Rabbits & Cavies) was pulled.

Consent Agenda

MOTION: Commissioner Benitz moved to approve the consent agenda items "a" through "g", pulling "b". Commissioner Bowman seconded and upon vote, the Board approved the following:

Fairgrounds

- a. Lease Agreement w/Cathedral of Joy
- c. Lease Agreement w/Lakeside Gem & Mineral Club, Inc.

Human Services

- d. Salary Request Statement

Personnel

- e. Service Contract Addendum w/Zee Medical, Inc.

Planning

- f. Travel Expense Reimbursements

Road/Engineer

- g. Piert Road Extension – State Funding Agreement – Supplement 2

Six-Year Road Program - Workshop

The Board reviewed the draft Six-Year Road Program 2009-2014 with Ross Dunfee and Larry Moser. The report included the following information: financial projection report (proposed revenues and expenditures); individual projects and sources of funding, costs, phasing and schedule; supplemental road data; and inventory of roadway network.

Commissioner Benitz discussed discrepancies between the capital facilities plan and capital projects funding sheet and had other questions regarding funding. Commissioner Bowman discussed the importance of keeping unfunded mandate projects on the list, so the County could continue to advocate the need for funding from the State.

The Board discussed how the State's priority for spending road money was on congestion and not safety and reducing fatalities. Chairman Oliver said as they continued to face declining revenue, the County needed to continue to ask the question why the fatality rate was not being addressed.

The Board agreed it would meet individually with the Road Department to address any concerns so it would be ready on April 28 for the public hearing.

The Board briefly recessed, reconvening at 10:05 a.m.

Other Business

Rattlesnake Mountain Access

Commissioner Bowman asked the Board if it wanted to have a strategy meeting with the community entities to decide how to move forward regarding the action taken by DOE to restrict public access to Rattlesnake Mountain.

Commissioner Benitz said the Emergency Management Board wrote a letter to the Governor regarding the State's Emergency Management Department. He said the Emergency Management Board hoped the State would give direction to the Department of Energy regarding access to Rattlesnake Mountain. He said they believed there would be a renewed interest from the state and federal level since there were a lot of entities that leased portions of that property.

Commissioner Bowman said it was still his belief the public and others besides Emergency Management should weigh-in on the subject.

Chairman Oliver reiterated his desire to have the PA's office contact DOE regarding agreements that were in place and to explore what other parties were pursuing. Commissioner Benitz said he wanted the opportunity to talk to legal counsel to see what the options were before agreeing to have the PA's office move forward with a review.

Ryan Brown requested the Board submit its request to him in writing.

Benton City Interchange

Bill Preston, Engineer for the Department of Transportation briefed the Board on the possible alternatives for I-82/SR 224 – SR 225 Interchange. He said the DOT had been visiting with Benton City regarding congestion and were completing a study on this area to come up with a solution. He discussed possible alternatives, including a roundabout at Kennedy, a traffic signal, combining the interchange with the Interchange for Red Mountain and splitting the difference; and a roundabout and slip ramp. He also provided the schedule for meetings and said he hoped to reach an agreement between the City, County, and DOT and work to get funding for the project.

Fairgrounds Risk Level Limits & Categories

Linda Ivey and Melina Wenner presented the resolution establishing the risk level limits and categories for events at the Fairgrounds.

MOTION: Commissioner Benitz moved to approve the resolution establishing an insurance risk policy for the Benton County Fairgrounds. Commissioner Bowman seconded and upon vote, the motion carried.

Federal Nutrition Program

Marianne Ophardt, WSU requested the Board approve the agreement with WSU to establish the Food Sense Nutrition Education program in Benton County. She said they were not asking for funds, but were asking for time allocated to the secretary to get match funding from the State.

MOTION: Commissioner Bowman moved to approve the Chairman to sign the introductory letter and agreement authorizing the allocation of secretary time to provide non-federal public funds as matching funds for the Food Sense Nutrition Education Program. Commissioner Benitz seconded and upon vote, the motion carried.

Executive Session

The Board went into executive session at 10:53 a.m. with DPA Ryan Brown and Melina Wenner for approximately five minutes to discuss County Claim CC 08-06. Also present were David Sparks, Loetta Smith Kelty, and Cami McKenzie. The Board came out of executive session at 10:56 a.m. Mr. Brown announced that no decisions were made.

MOTION: Commissioner Benitz moved to approve that Melina Wenner prepare a letter and resolution to deny claim CC 08-06. Commissioner Bowman seconded and upon vote, the motion carried.

Other Business

WSAC/WACO Scholarship

Commissioner Bowman reported that WSAC/WACO had received eight scholarship applications from relatives of Benton County employees, probably because of the effort by Ms. Wenner to get the word out.

Agenda Items

Commissioner Bowman discussed a multitude of agenda items that needed further review and wanted to know how the Board was going to facilitate and work these items and wanted to make sure the Board provided the resources for staff to accomplish the tasks.

Commissioner Benitz said he would discuss the issue with David Sparks to see what he recommended.

Chairman Oliver discussed some of the different items and how each was being addressed either by staff or upcoming workshops.

KID Vacancy

Chairman Oliver asked the Board if it wanted to accept the recommendations by the KID Board or conduct its own interviews.

The Board agreed to conduct its own interview process. Chairman Oliver said he would review the applicants with David Sparks and bring back a recommendation for interviewing three applicants.

Other Business

Alternative Sentencing

Chairman Oliver provided a packet of information on the "Second Chance Act" signed by President Bush and encouraged the Board to have deliberations and said that he would be researching this issue.

Commissioner Benitz said this could have a huge financial impact on Benton County and recommended the criminal justice experts come back with a recommendation.

Commissioner Bowman also said he would like to wait for a recommendation from the experts.

Contract with Fowler General Construction

Roy Rogers presented a contract awarding construction to Fowler General Construction for two new offices located in the Benton County Jail.

MOTION: Commissioner Bowman moved to approve the resolution authorizing the Chairman to sign the construction agreement with Fowler General Construction, Inc. Commissioner Benitz seconded and upon vote, the motion carried.

Contract with Frontier Fencing, Inc.

Roy Rogers presented a contract with Frontier Fence, Inc. to replace the east section of the north gate located at the Benton County Jail.

MOTION: Commissioner Bowman moved to approve the resolution authorizing the Chairman to sign the contract with Frontier Fence, Inc. Commissioner Benitz seconded and upon vote, the motion carried.

Resolutions

- 08-454 Approving the Lease Agreement Between Benton County Fairgrounds and The Cathedral of Joy
- 08-455 Approving the Lease Agreement Between Benton County Fairgrounds and The Lakeside Gem & Mineral Club, Inc.
- 08-456 Services Contract and Addendum Between Benton County and Zee Medical, Inc.
- 08-457 Supplement No. 2 Agreement, Piert Road Extension
- 08-458 Establishing an Insurance Risk Policy for the Benton County Fairgrounds
- 08-459 Agreement with WSU Regarding Food Stamp Nutrition Education
- 08-460 Awarding the Construction Agreement with Fowler General Construction, Inc. for Two New Office Located in the Benton County Jail
- 08-461 Awarding the Contract to Frontier Fence to Replace the East Section of the North Gate Located at the Benton County Jail

Vouchers

Check Date: 04/04/2008
Taxes # 10108041-10108042
Warrant # 894723-894766
Total all funds: \$1,896,695.16

Check Date: 04/04/2008
Warrant # 217562-217752
Direct Deposit # 36803-37343
Total all funds: \$1,770,643.56

Check Date: 04/11/2008
Warrant # 894936-895190
Total all funds: \$1,196,535.14

Total amounts approved by fund can be reviewed in the Benton County Auditor's Office.

There being no further business before the Board, the meeting adjourned at 11:35 a.m.

Clerk of the Board

Chairman

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: <u>4/21/08</u>	Execute Contract	<u> x </u>	Consent Agenda <u> x </u>
Subject: <u>Contract Amendment</u>	Pass Resolution	<u> x </u>	Public Hearing _____
Prepared by: <u>Lisa Small</u>	Pass Ordinance	_____	1st Discussion _____
Reviewed by: _____	Pass Motion	_____	2nd Discussion _____
	Other	_____	Other _____

CA

BACKGROUND INFORMATION

The Board entered into a service agreement with Hart's Backflow Testing per resolution 07-690 dated September 24, 2008 for backflow testing at the Justice Center and the Prosser Courthouse for a contract amount of \$1,670.00, excluding WSST, with a termination date of December 31, 2007.

Benton County Facilities Manager is pleased with the services they have provided and wishes to extend the contract for an additional one (1) year with said service agreement to expire December 31, 2008.

The Facilities Manager also recommends adding the backflow testing at Horn Rapids Park and Two Rivers Park to the current contract for an additional \$160.00, excluding WSST increasing the contract amount to \$1,830.00 excluding WSST with an amount not to exceed \$2,330.00, excluding WSST for acceptable overages, incidentals and other unanticipated cost.

RECOMMENDATION

Approve the attached resolution and service agreement amendment, increasing the contract to an amount not to exceed \$2,330.00 and extending the termination date to December 31, 2008; authorizing the Chairman of the Board to sign said amendment.

MOTION

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A SERVICE AGREEMENT AMENDMENT BETWEEN BENTON COUNTY AND HART'S BACKFLOW TESTING FOR BACKFLOW TESTING AT BENTON COUNTY FACILITIES; AMENDING RESOLUTION 07-690

WHEREAS, per resolution 07-690 dated September 24, 2007 the Board of Benton County Commissioners entered into a service agreement with Hart's Backflow Testing, LLC, Wenatchee, WA – Contractors Lic. No. HARTSBT935CH in the amount \$1,670.00 excluding WSST for the backflow testing services located at the Benton County Justice Center and the Benton County Courthouse; and

WHEREAS, said agreement expired December 31, 2007 with an option to extend an additional two (2) years if agreed upon by both parties; and

WHEREAS, Benton County Facilities Manager is pleased with the services they have provided and wishes to extend the contact for an additional one (1) year with said service agreement expiring December 31, 2008; and

WHEREAS, the Facilities Manger also recommends adding the backflow testing at Horn Rapids Park and Two Rivers Park to the current contract for an additional \$160.00 excluding WSST; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby approves the amendment to the service agreement with Hart's Backflow Testing, LLC, increasing the contact amount to \$1,830.00 with an amount not to exceed \$2,330.00 for acceptable overages, incidentals and other unanticipated cost, and a termination date of December 31, 2008.

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the service agreement amendment attached hereto.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

Orig: File – Lisa Small
cc: Auditor; R. Ozuna, Facilities, Hart's Backflow Testing

FIRST SERVICE AGREEMENT AMENDMENT

THIS AGREEMENT, made and entered into this _____ day of April, 2008 by and between **BENTON COUNTY, WASHINGTON** hereinafter called "COUNTY" and **HART'S BACKFLOW TESTING, LLC**, Wenatchee, WA 98802 a firm licensed to do business in the State of Washington, hereinafter called "CONTRACTOR".

The parties entered into a Service Agreement dated September 24, 2007 (the "AGREEMENT") to provide complete backflow testing of the water supply to the Benton County Justice Center, 7122 W. Okanogan Place, Kennewick, WA and the Benton County Courthouse, 620 Market Street, Prosser, WA 99350.

The AGREEMENT specifies it may be extended for an additional two (2) years if mutually agreed upon by both parties; and

The parties agree that all provisions of their amended agreement remain in effect except for the following amendments:

1. CONTRACT DOCUMENTS the existing paragraph shall be amended by adding the following Exhibit:

Exhibit "C" – Contractor's Verbal Proposal dated 4/9/08

2. DURATION OF CONTRACT the existing paragraph shall be replaced in its entirety with the following:

The term of this Contract shall begin when executed by both parties, and shall expire on December 31, 2008. Upon mutual agreement of both parties, the original terms and conditions of the contract may be extended for one (1) additional twelve-month period, and will only be approved with an amendment to this contract.

3. SERVICES PROVIDED the existing paragraph shall be amended by adding the following locations for services to be provided:

Horn Rapids Park, Benton City, WA and Two Rivers Park, Finley, WA

4. COMPENSATION the existing paragraph shall be replaced in its entirety with the following:

The CONTRACTOR shall be paid in accordance with the proposal provided in Exhibit A attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this agreement is one thousand eight hundred thirty dollars and zero cents (\$1,830.00) not including W.S.S.T. Total amount payable, including acceptable overages, incidentals and other unanticipated costs shall not exceed two thousand three hundred thirty dollars and zero cents, (\$2,330.00) not including W.S.S.T. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such

Orig.: File – Lisa Small
cc: Auditors; R. Ozuna; Facilities, Backflow Testing

Small

affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment and no release of retainage or performance bond will be made until such affidavit is provided.

IN WITNESS WHEREOF the Chairman of the Board of the Benton County Commissioners has executed this Contract Amendment on behalf of the County, and the Contractor has executed this Contract, on the day and year first above written.

BENTON COUNTY

HART'S BACKFLOW TESTING, LLC

Claude Oliver, Chairman

Raymond "Sam" Hart

Date: _____

Date: _____

Approved as to Form:

Deputy Prosecuting Attorney

Date: _____

EXHIBIT C

HART'S BACKFLOW TESTING, LLC
1606 N. ASHLAND AVE.
EAST WENATCHEE, WA 98802
(509) 886-1721 - PHONE
(509) 884-0506 - FAX

April 9, 2008

Mr. Sam Hart,

Below is the break down for the verbal quote you provided me this 9th day of April 2008 @ 9:50 a.m. over the telephone for Benton County parks backflow testing. This price quote will be referenced in the amendment to the contract as Exhibit C.

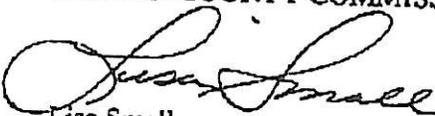
Verbal quote for backflow testing at Horn Rapids Park and Two Rivers Park

Three (3) backflows at Horn Rapids Park	\$40.00 ea.	\$120.00
One (1) backflow at Two Rivers Park	\$40.00 ea.	<u>\$ 40.00</u>
		\$160.00

Please provide your signature below where indicated as an acknowledgement and agreement for the verbal quote provided and fax back to our office at (509) 786-5625. An amendment of the contract will be sent to you soon for signature.

Sincerely,

BENTON COUNTY COMMISSIONERS



Lisa Small
Executive Secretary



Raymond "Sam" Hart, Owner
Hart's Backflow Testing, LLC

4-11-08
Date

b

**BENTON AND FRANKLIN COUNTIES
ACTION SUMMARY COVER SHEET**

AGENDA ITEM	TYPE OF ACTION NEEDED	
Agreement #0863-38329 with the Department of Social and Health Services Prepared By: Carol Carey	<input checked="" type="checkbox"/> Execute Contract <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Pass Motion <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> 1 st Discussion <input type="checkbox"/> 2 nd discussion <input type="checkbox"/> Other

BACKGROUND INFORMATION

The Department of Social Health Services sets forth the procedure by which DSHS will assess and adjust the Long-Term Payable it provides to the County.

SUMMARY

Award: n/a
Period: July 1, 2008 through June 30, 2009.
Funding Source: n/a

RECOMMENDATION

- Sign the resolution to accept the proposed agreement.
- Approve the proposed agreement by signing all the copies where indicated.

FISCAL IMPACT

This agreement does not have any fiscal responsibilities. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

To approve signing agreement #0863-38329 with the Department of Social and Health Services and authorize the Chairs of Benton and Franklin County Commissioners to sign the agreement on behalf of the Board.

RESOLUTION

Franklin County Resolution Number _____

Benton County Resolution Number _____

BEFORE THE BOARDS OF COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES,
WASHINGTON:

IN THE MATTER OF EXECUTION OF AN INTERAGENCY AGREEMENT FROM THE DIVISION OF SOCIAL AND HEALTH SERVICES (DSHS) THAT SETS FORTH THE PROCEDURE BY WHICH DSHS WILL ASSESS AND ADJUST THE LONG-TERM PAYABLE IT PROVIDES TO THE COUNTY, PER AGREEMENT #0863-38329

WHEREAS, the Division of Social and Health Services specifies the procedure by which DSHS will assess and if necessary, adjust the Long-Term Payable it provides to the County for the year 2008-09; and

WHEREAS, the Agreement shall be effective for the period July 1, 2008 and remains effective until June 30, 2009; NOW THEREFORE,

BE IT RESOLVED that the Boards of Benton and Franklin County Commissioners hereby accept the proposed agreement; and

BE IT FURTHER RESOLVED that the Chairman is hereby authorized to sign the agreement on behalf of the Boards of Benton and Franklin County Commissioners.

Dated this day of, 2008

Dated this day of, 2008

Claude Oliver, Chair

Robert E. Koch, Chair

Max E. Benitz, Jr., Chair Pro Tem

Rick Miller, Chair Pro Tem

Leo Bowman Member
Constituting the Board of County
Commissioners of Benton County, Washington

Neva J. Corkrum, Member
Constituting the Board of County
Commissioners of Franklin County, Washington

Attest:
Clerk of the Board

Attest:
Clerk of the Board

cc: Human Services, file

Carey

BENTON COUNTY TRAVEL EXPENSE REIMBURSEMENT

VENDOR #: 468770
 NAME: Carrie Huie-Pasco
 ADDRESS: _____

FUND: HUMAN SERVICES #0108-101
 MONTH: Feb. 2008

IRS PUB 1542

Under www.IRS.GOV/Search for 1542
 APR 11 2008
 COMMISSIONERS

NOTE: A receipt for the following must be attached to your form: transportation fares, room charges, parking fees, registration fees, and meals by Commissioners and Department Managers.

DATE	MEALS			TOTALS	RECEIPTS REQUIRED			TRAVEL MILEAGE	PURPOSE & LOCATION REQUIRED	
	BREAKFAST	LUNCH	DINNER		TRANSPORT (AIR/TAXI)	CAR RENTAL/PARKING	REGISTRATION FEES/OTHER		PURPOSE	LOCATION
2/5								4		
2/6				64.00	8.00			222	mtg. @ GOBH	Kenn.
2/7			29.-	29.-					mtg w/ HUD re: Shelter + Care	Seattle
2/8			29.-	29.-					National Bond - Homelessness	Seattle
2/11				63.00				222	return to DHS	Kenn.
2/11								21	Franklin Co. Commissioners	Pasco
2/13								21	Co. Meeting	Pasco
2/14								5	Model for Change Meeting @ Gov. Kenn	Kenn.
2/25								4	GOBH Board Mtg	Kenn.
2/27								816	CIT Planning - KPD	Kenn.
								4	GOBH Mtg. - Jackie D.	Kenn

Miles: 519 @ .505/mile (effective 1/7/08)
 SUBTOTALS: \$ 122.- Meals \$ 351.42 Lodging \$ 71.02 Transport \$ 262.09 Rental \$ 806.51 Other \$ 802.47
 TOTAL REIMBURSEMENT REQUEST: \$ 802.47

CERTIFICATION
 I hereby certify that under penalty of perjury that this is a true and correct claim for necessary expenses incurred by me and that no payments have been received on account thereof.
 Signature of Employee: Carrie Huie-Pasco
 Job Title: Human Services Director
 Approval: _____ Date: _____

BUDGET CODING			AMOUNT
DEPT	BASE SUB	OBJECT	
500	500.110	4301	806.51





Come back soon

Sheraton Seattle Hotel
1400 Sixth Avenue
Seattle, Washington 98101
T 206 621 9000 F 206 621 8441
sheraton.com/seattle

TRAVEL AGENT / CHARGE TO

GUEST

Ms Carrie Huie-pascua

Room 2128
Rate 152.00
No pers. 1
Folio EX-A
Page 1
Arrive 06-FEB-08 16:11
Depart 08-FEB-08
Payment VM

EHB06A

DATE	REFERENCE	DESCRIPTION	CHARGES / CREDIT
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06-FEB-08	RT2128	Room Chrg Grp Association	152.00
06-FEB-08	RT2128	Room Tax	23.71
06-FEB-08	6305	Daily Grill	3.74
07-FEB-08	RT2128	Room Chrg Grp Association	152.00
07-FEB-08	RT2128	Room Tax	23.71
08-FEB-08	VM	Visa/MasterCard	355.16-
		Total-Due	0.00

For your convenience, we have prepared this zero-balance folio indicating a \$0 balance on your account. Please be advised that any charges not reflected on this folio will be charged to the credit card on file with the hotel. While this folio reflects a \$0 balance, your credit card may not be charged until after your departure. You are ultimately responsible for paying all of your folio charges in full.

EXPENSE REPORT SUMMARY

Date	Room & Tax	Food & Bev	Telephone	Parking	Laundry	Other	Total
06-FEB-08	175.71	3.74	0.00	0.00	0.00	0.00	179.45
07-FEB-08	175.71	0.00	0.00	0.00	0.00	0.00	175.71
Total	351.42	3.74	0.00	0.00	0.00	0.00	355.16

Date	Payment
06-FEB-08	0.00
07-FEB-08	0.00
Total	0.00

I agree to remain personally liable for the payment of this account if the corporation or other third party billed fails to pay part or all of these charges.

Signature

As a Starwood Preferred Guest, you could have earned 608 Starpoints for this visit. Please provide your member number or enroll today.

9:05

AGENDA ITEM: MTG. DATE: April 21, 2008 MEMO. DATE: April 15, 2008 SUBJECT: Short Plat Vacation - SPV 08-01, Don Arbogast/Sam Hobson Prepared By: Michael Shuttleworth	<u>TYPE OF ACTION</u> <u>NEEDED</u> Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other
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BACKGROUND INFORMATION

On June 25, 1980, Short Plat 1005 was recorded, which created 4 lots. The recorded short plat included the following statement for Lots 1 and 2: "Access to Hwy for Lots 1 & 2 limited to this area". At the time the short plat was recorded, Kennedy Road was a State Highway (SR 12) and the State of Washington was limiting accesses onto the Highway. Since then the County has taken over the road and does not limit access as the state did.

Property owners of the lots within the short plats and owners of property within 300' of the outer perimeter of said short plats have been notified. All concerned agencies such as Benton County Fire District 1, Kennewick Irrigation District, Health District, Benton County Engineer, Benton County Fire Marshall and affected utility companies have been notified of this proposal. No agency objected to the proposed vacation.

SUMMARY

Benton County has received an application requesting the vacation of statement "Access to Hwy for Lots 1 & 2 limited to this area" for Lots 1 & 2 of Short Plats 1005. The Board of County Commissioners is scheduled to conduct a public hearing on April 21, 2008 at 9:05 a.m.

RECOMMENDATION

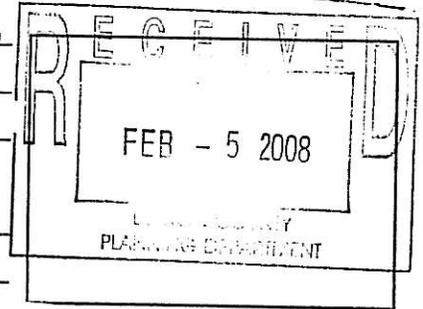
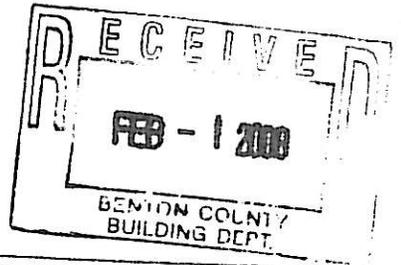
It is the recommendation of the Planning Department that the Board of County Commissioners conducts a public hearing, and based on the testimony received, either approve or deny the request. Based on the information received thus far, the Planning Department does not see any problems with the proposed vacation of the statement on Lots 1 & 2 of Short Plat 1005.

MOTION

The Benton County Planning Department recommends the following motion: The Benton County Board of Commissioners approves the vacation of the statement: "Access to Hwy for Lots 1 & 2 limited to this area", located on the face of Short Plat 1005, in the Northeast Quarter of Section 16, Township 9 North, Range 27 East, W.M.

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BENTON COUNTY PLANNING DEPARTMENT
SHORT PLAT VACATION APPLICATION
FILE NO. SDV08-01



1. Name and address of applicant: Don Arbogast + Sam Hobson
Telephone number: Home: 509-555-1515 Work: 509-555-1515

2. Legal owners name and address: Don Arbogast
Telephone number: Home 509 Work 509

3. Parcel Number or Legal description of the short plat to be vacated: Short Plat 1005 (E 1/2 of the SE 1/4 of the SE 1/4 of Sec 16, Township 9, Range 27 lying N of Kennedy Road)

4. Explain the reason for the requested vacation. <see attachment>

5. Describe the existing land uses on the properties to be vacated: Lots 1+2 are vacant land; (lots 3+4 have single family residences)

7. COMMENTS OR PERTINENT INFORMATION: <see attachment>

I certify that the information given above is true and complete to the best of my knowledge.

PLEASE SIGN AND THEN PRINT YOUR NAME: Signatures of all persons holding an ownership interest in the real property area is required. (Include Power of attorney when signing for others.)

I certify that the information given above is true and complete to the best of my knowledge.

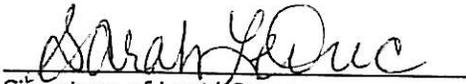
Signed on next page Don Arbogast 1/27/08
Applicant's Signature Print Name Date
Parcel # 1-1697-401-1005-002

Sam Hobson, Trustee of SDH Trust Sam Hobson 1/10/08
Signature of Legal Owner Print Name Date
Parcel # 1-1697-401-1005-001



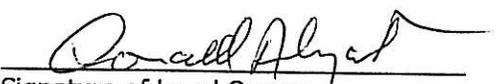
Signature of Legal Owner
Parcel # 1-1697-401-1005-003

Daniel B. King
Print Name for STARR Management Date 1/23/08
L.P.



Signature of Legal Owner
Parcel # 1-1697-401-1005-004

Sarah LeDuc
Print Name Date 1/25/08



Signature of Legal Owner
Parcel # 1-1697-401-1005-002

DONALD ARBOAST
Print Name Date 1/27/08

Signature of Legal Owner
Parcel # _____

Print Name Date _____

Any information submitted to the Benton County Planning/Building Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

(ALL persons with an ownership interest in the property on which the land use action is proposed must sign the application other than interests exclusively limited to ownership of the parcel's mineral rights.)

NOTE: THE SHORT PLAT VACATION APPLICATION FEE OF \$100.00 MUST BE SUBMITTED WITH THE APPLICATION. THIS FEE IS NON-REFUNDABLE. PLEASE MAKE THE CHECK PAYABLE TO THE BENTON COUNTY TREASURER. THERE ARE NO GUARANTEES THAT YOUR APPLICATION WILL BE APPROVED. THE RECORDING FEE IS TO BE PAID AT THE TIME OF RECORDING.

7/6/07

Benton County Planning Department
Short Plat Vacation Application
Applicant: Don Arbogast and Sam Hobson
Short Plat 1005

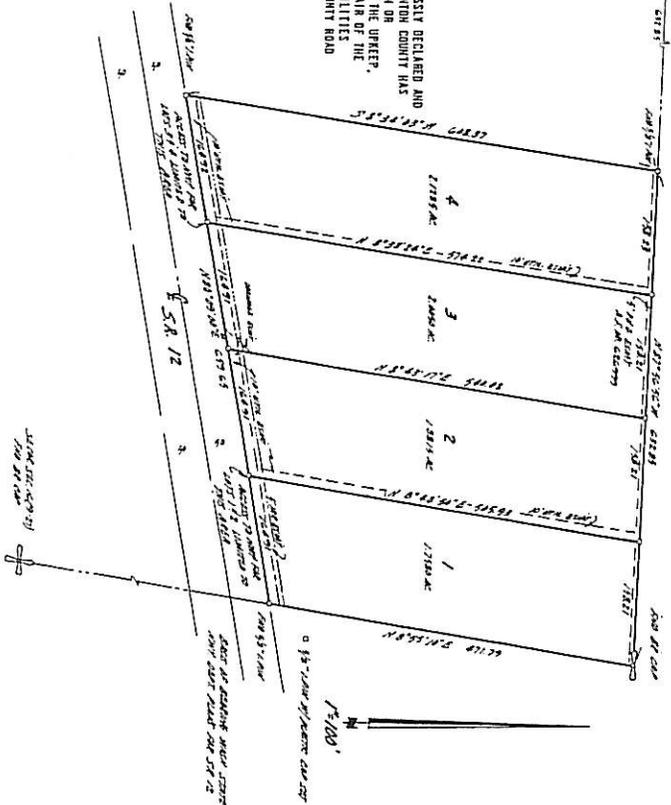
Additional information for items 4 and 7 on application form.

This application requests a vacation of an outdated restriction of Short Plat 1005. In particular, the applicants would like to eliminate the restriction that Lots 1 & 2 share a single access connection to Kennedy Road. The owners of Lots 1 & 2 would each like independent access to Kennedy Road. Two significant changes since the approval of Short Plat 1005 have created the need for removal of the short plat restriction.

1. When Short Plat 1005 was approved in 1980, the roadway providing access to the lots was State Route 12. At that time, the State wished to limit the number of access connections to State Route 12 and so requested that Lots 1 & 2 share a single access connection. State Route 12 has since become Kennedy Road, which is a County road. Limiting access connections along this portion of Kennedy Road is not a priority for Benton County, pursuant to conversations with Benton County Public Works. Public Works has indicated its willingness to grant separate encroachment permits for Lots 1 & 2 once the short plat restriction is vacated.
2. When Short Plat 1005 was approved in 1980, the shared access connection served two lots. However, a planned subdivision of parcel 1-1697-400-0001-002 will result in a single access connection serving six lots, which may overburden the access connection and is not desired by the applicants.

The applicant requests that the County approve the vacation of the access connection restrictions for Lots 1 & 2 of Short Plat 1005.

NOTE: IT IS EXPRESSLY DECLARED AND UNDERSTOOD THAT BENTON COUNTY HAS NO DUTY, OBLIGATION OR RESPONSIBILITY FOR THE UPEEP, MAINTENANCE OR REPAIR OF THE STORM DRAINAGE FACILITIES LOCATED OUTSIDE COUNTY ROAD RIGHT-OF-WAY.



DESCRIPTION
ALL THAT PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 27 EAST, W.M., BENTON COUNTY, WASHINGTON, LYING NORTH OF THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF HIGHWAY SR-12.

SURVEYOR'S CERTIFICATE

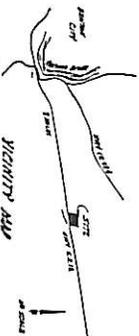
I, DAVID G. CHRISTENSEN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF WASHINGTON, HEREBY CERTIFY THAT THE SHORT PLAT AS SHOWN HEREON IS BASED ON ACCURATE SURVEY OF THE LAND DESCRIBED AND THAT ALL CORNERS AND DISTANCES ARE CORRECTLY SHOWN AND THAT SAID SHORT PLAT IS STAKED ON THE GROUND AS INDICATED HEREON.

WASHINGTON REC. NO. 13352

DATE 5/5/80



WOLLEY SURVEYING SERVICE, INC. P.S.
172-A VISITA WAY
KENNESIC, WASHINGTON 98338
709-9316



PREPARED UNDER BENTON COUNTY SHORT PLAT ORDINANCE NO. 103

OWNER'S CERTIFICATE

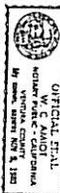
WE, RAYMOND C. BELLET AND ALICE E. BELLET, HUSBAND AND WIFE, AND RAY YEAGER, JR. AND DONZEL L. YEAGER, HUSBAND AND WIFE, HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE TRACT OF LAND DESCRIBED HEREON AND THAT WE HAVE CAUSED SAID LAND TO BE SURVEYED AND PLATTED INTO LOTS AS SHOWN AND THE EASEMENTS ON THE SHORT PLAT ARE GRANTED FOR THE USES SHOWN THEREON.

R.C. Bellet
Alice E. Bellet
Ray Yeager, Jr.
Donzel L. Yeager

STATE OF WASHINGTON
COUNTY OF BENTON

I, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, HEREBY CERTIFY THAT ON THE 20 DAY OF December 1979 A.D., PERSONALLY APPEARED BEFORE ME RAYMOND C. BELLET AND ALICE E. BELLET, HIS WIFE, PERSONALLY TO BE THE INDIVIDUALS WHO EXECUTED THE FOREGOING OWNERS CERTIFICATE AND ACKNOWLEDGED TO ME THAT THEY SIGNED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED. IN WITNESS WHEREOF, I HAVE SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Hesperia, Ca.
MY COMMISSION EXPIRES 11/9/80



STATE OF WASHINGTON) ss
COUNTY OF BENTON)

I, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, HEREBY CERTIFY THAT ON THE 4 DAY OF May 1980 A.D., PERSONALLY APPEARED BEFORE ME RAY YEAGER, JR. AND DONZEL L. YEAGER, HUSBAND AND WIFE, TO BE THE INDIVIDUALS WHO EXECUTED THE FOREGOING OWNERS CERTIFICATE AND ACKNOWLEDGED TO ME THAT THEY SIGNED THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED. IN WITNESS WHEREOF, I HAVE SET MY HAND AND AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Hesperia, Ca.
MY COMMISSION EXPIRES 11/9/80



APPROVALS

THE LAND DESCRIBED HEREON IS IN THE KENNERLICK IRRIGATION DISTRICT BUT IS NOT ASSESSED AT THIS TIME. THE IRRIGATION EASEMENTS AS SHOWN HEREON ARE HEREBY APPROVED.

KENNERLICK TRIBUTARY DISTRICT
DATE 5/5/80

I HEREBY CERTIFY THAT THE TAXES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND INCLUDING THE YEAR 1980
DATE 6-25-80

BENTON COUNTY TREASURER
DATE 6-25-80

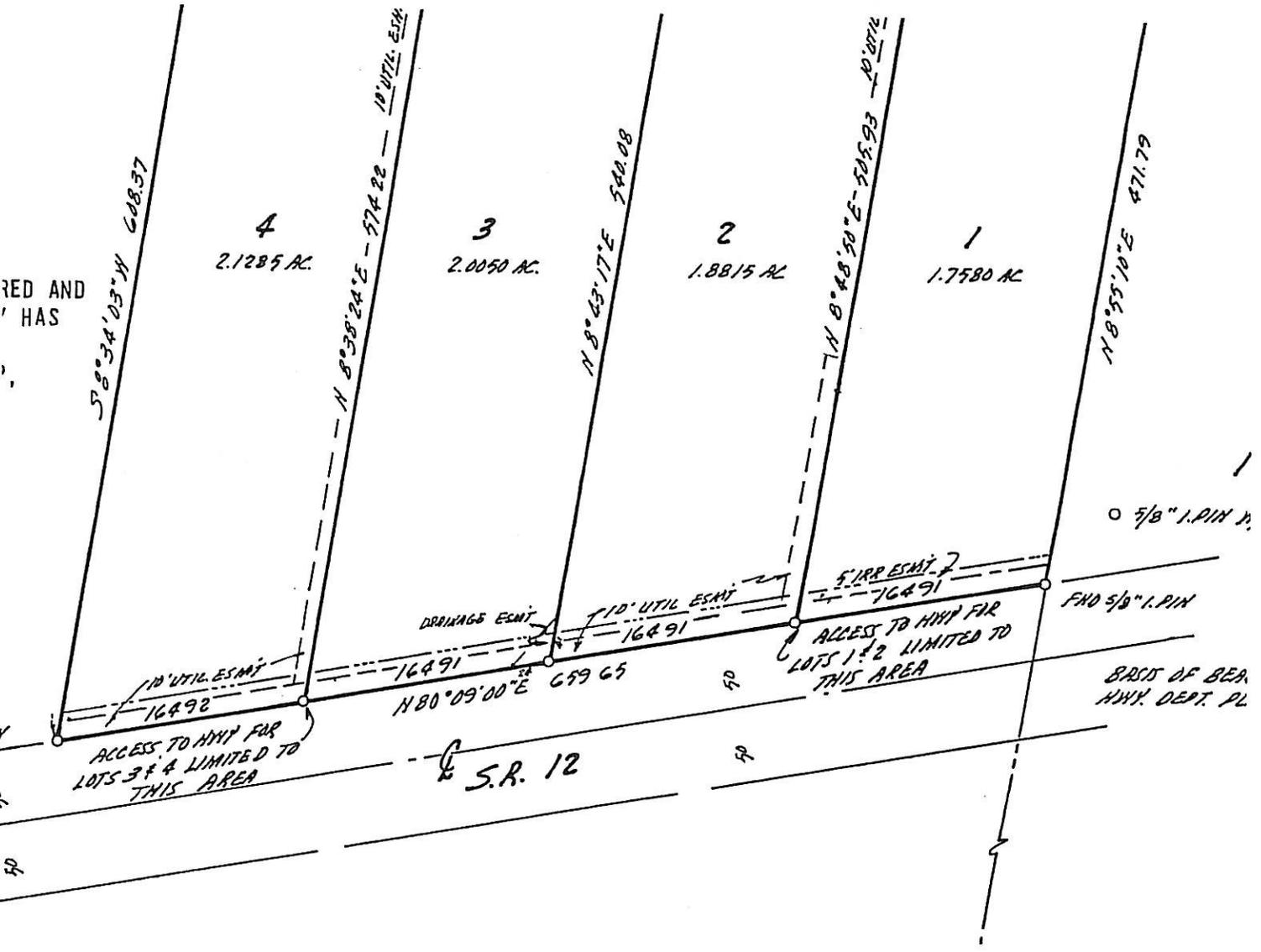
THE ANNEXED SHORT PLAT IS HEREBY APPROVED BY AND FOR THE COUNTY OF BENTON, STATE OF WASHINGTON.
DATE 6-25-80

BENTON COUNTY SHORT PLAT ADMINISTRATOR
DATE 6-25-80

ADDITION'S CERTIFICATE
FILED FOR RECORD AT THE REQUEST OF Ray Yeager, Jr. AT 27 MINUTES PAST
5:00 P.M. THIS 22nd DAY OF June 1980, AND RECORDED IN VOLUME
OF SHORT PLATS, PAGE 1005, RECORDS OF BENTON COUNTY, WASHINGTON.

BENTON COUNTY ADDITOR
FEE \$221.38
DATE 6-25-80

RED AND
' HAS



ACCESS TO HWY FOR
LOTS 3 & 4 LIMITED TO
THIS AREA

S.R. 12

ACCESS TO HWY FOR
LOTS 1 & 2 LIMITED TO
THIS AREA

BASED OF BEA.
HWY. DEPT. PL

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5/8" I.PIN N.

END 5/8" I.PIN

58°34'03"W 608.37

4
2.1285 AC.

N 8°38'24"E - 574.28 - 10' UTIL. ESMT

3
2.0050 AC.

N 8°43'17"E 544.08

2
1.8815 AC

N 8°48'50"E - 505.93 - 10' UTIL. ESMT

1
1.7580 AC

N 8°55'10"E 471.79

10' UTIL. ESMT

164.92

DRAINAGE ESMT

N 80°09'00"E 699.65

10' UTIL. ESMT

164.91

5' IRR. ESMT

164.91

9:10

Max Benitz - Fwd: Re: Benton County Hanford Lands Forever Despoiled-The Price Tag? Washington ...

From: Ryan Brown
To: Leo Bowman; Max Benitz
Date: 4/15/2008 9:01 AM
Subject: Fwd: Re: Benton County Hanford Lands Forever Despoiled-The Price Tag? Washington ...
CC: Andy Miller; Claude Oliver

Max and Leo,

Here is the one email I referenced that does not appear to have been copied to you at the time it was sent. So, here it is for your information.

Ryan

>>> Andy Miller 3/13/2006 9:22 AM >>>
Claude,

Ryan called the asst attorney general the day I got your message. He did not take the call and has not returned the call. You may recall that we had the same issue the last time we tried to communicate with them.

The way we read the law, the attorney general should be representing Benton County's interests. I suggest that you contact Rob McKenna to discuss this. If after talking to McKenna, if you are not satisfied with the attorney general's representation, I think we should take another look at benton county's involvement. In the meantime, hopefully the asst will return Ryan's call.

>>> < ClaudeOliver@aol.com > 03/12 2:59 AM >>>

Andy: In Washington, DC last week, I talked with Mike Wilson about why Washington State took the legal issue of Hanford Lands Reversion Status up at this time? Mike said the Indians were getting ahead of the state and the state wanted to make sure the Indians did not override Washington States rights, in any subsequent process. We need to decide if we are content with Washington State overriding Benton County's rights for any impact consideration for lands despoiled in Benton County - could be in the billions.

Conversations about mitigation of damaged lands did occur with Ryan some years ago and he did advise as long as US DOE was doing cleanup mitigation any judge would likely say the County has no issue until matter is settled. However, NOW; our Tribes and Washington State are both moving ahead of the curve. I suggest you have someone talk to the State to see what they really intend to achieve by their latest legal action and then advise, WHERE does this leave Benton County?

Best, Claude

Max Benitz - State v. DOE NRD Case

From: Ryan Brown
To: Claude Oliver
Date: 4/15/2008 9:00 AM
Subject: State v. DOE NRD Case
CC: Andy Miller; David Sparks; Leo Bowman; Max Benitz

Claude,

During the board meeting yesterday regarding BCEMS use of Rattlesnake Mountain, you referred to legal actions by the State and a tribe against DOE. You further mentioned some sort of opinion by me on the topic of the two lawsuits about three years ago.

We have reviewed our files. The only thing we have been able to locate that seems somewhat like what you were referring to is an email to you from me dated March 14, 2006, wherein I explained the nature of the two actions against DOE, with the pleadings attached. For Max and Leo's sake, you should have that email as well as you were copied on it. This appears to be the communication from our office to which you were referring, is that correct?

Also, for your reference you may want to review your email to Andy dated March 7, 2006, Andy's email to you (copied to Leo and Max) dated March 8, 2006, and Andy's email to you dated March 13, 2006.

As we discussed yesterday, if the board would like us to do something further regarding this issue as it pertains to the Rattlesnake Mountain issue, we will need something from you to explain exactly what you would like us to do and how you see the relationship between the two issues.

PS: If anyone has trouble locating these emails, let us know and we can forward them to you. Max and Leo, I will be forwarding the one referenced email that does not appear to have been copied to you (March 13, 2006, from Andy to Claude).

Ryan

Ryan K. Brown, Chief Deputy (Civil)
Benton County Prosecuting Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

This email, any and all attachments hereto, and all information contained and conveyed herein may contain and be deemed confidential attorney client privileged and/or work product information. If you have received this email in error, please delete and destroy all electronic, hard copy and any other form immediately. It is illegal to intentionally intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept, any wire, oral or electronic communication.



RECEIVED

APR 18 2008

BENTON COUNTY COMMISSIONERS

*Comms
boot - 4-21-08*

Max	<input checked="" type="checkbox"/>
Leo	<input checked="" type="checkbox"/>
Claude	<input checked="" type="checkbox"/>
David	<input checked="" type="checkbox"/>
Loretta	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

April 18, 2008

Chairman Claude Oliver
Commissioner Max Benitz, Jr.
Commissioner Leo Bowman

Dear Benton County Commissioners,

This letter is in response to your request for information on the effect to Benton PUD of the Department of Energy's proposed new policy regarding access to Rattlesnake Mountain.

As with Benton County, the District also has many concerns with DOE's action and the impact it will have.

We currently are the electric utility provider for the entire Rattlesnake site and as such have many duties, requirements and customer expectations to fulfill. We exist there by agreement and easements and have provided service to the users on Rattlesnake for over 45 years. As long as Benton PUD provides electric service, it appears that there is no termination provision to our power line facilities easement.

During this time period we have:

1. Constructed new facilities when requested, for DOE, its lessees and/or contractors
2. Operated and maintained our existing power system
3. Obtained monthly reads of our billing meters

We additionally have a communication facility with a lease that was executed in 1992 for 50 years. It is our understanding that DOE's intent is to not allow this lease to be renewed, and their communication with us did not include dates of any of the entities' leases or confirm that ours is effective through 2042.

The District owns or is involved with additional critical communication infrastructure on Rattlesnake that provides radio coverage which is connected with various emergency services, specifically the 800 MHz radio system we share with Benton County and other agencies including the State of Washington.

Our electric system control master radios are also located in these communication facilities on Rattlesnake and these radios provide for electric system power scheduling along with real-time system control and data acquisition.

The District is very concerned that there may not be a reasonable relocation solution and if there is, it would undoubtedly be at considerable cost. New towers, buildings, property purchase and relocation of all the radios would be in the neighborhood of \$1,500,000 to \$2,500,000 – again if we are even able to relocate.

The District is currently preparing a response to DOE's letter informing us of this policy change. In it, we will request a copy of the plan that DOE is referring to that led to their letter of notification and the associated timeline. To serve our customers responsibly, we need a clear understanding of the issues and what we will need to do to fulfill our obligations. The District is also trying to understand the full impact of DOE's proposed policy change and determine our future actions as it relates to our business and customers.

We understand that Rattlesnake is a federally-owned local community asset and as such believe there should be a public input process to address all issues and concerns. The decision on the future of the site needs to consider the impacts on the local community and local public agencies' infrastructure. There is a long history of the use of Rattlesnake Mountain for the local public benefit; and a process that assures good judgment and fairness needs to be used in the final decision.

I hope this addresses some of your information needs and I look forward to answering any other questions you have. If the DOE follows through with a public forum, I hope your schedules will allow you to attend.

Sincerely,

A handwritten signature in cursive script, appearing to read "James W. Sanders".

James W. Sanders
General Manager

JWS/das

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ELLIOTT FURST, Senior Counsel
NELS JOHNSON, Assistant Attorney General
Office of the Attorney General
P.O. Box 40117
Olympia, WA 98504-0117
(360) 586 6770

DAVID J. CUMMINGS
Office of Legal Counsel
Nez Perce Tribe
P.O. Box 305
Lapwai, ID 83501
TEL: (208) 843-7355
FAX: (208) 843-7377

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

CONFEDERATED TRIBES AND
BANDS OF THE YAKAMA
NATION, LEWIS CLOUD,
CHAIRMAN OF THE YAKAMA
NATION TRIBAL COUNSEL,

Plaintiff,

v.

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY,
and UNITED STATES OF
AMERICA DEPARTMENT OF
DEFENSE,

Defendants.

No. CY-02-3105-LRS

STATE OF WASHINGTON
AND NEZ PERCE TRIBE'S
JOINT MEMORANDUM IN
SUPPORT OF MOTION TO
INTERVENE

1 Nation's Proposed Second Amended Complaint contains four claims arising
2 under CERCLA. The second of those claims (Claim II) seeks a declaratory
3 judgment of Defendants' liability for natural resource injury assessment costs
4 at Hanford.¹ It is solely with regard to this second claim that Washington and
5 the Nez Perce seek to intervene in this action.

6 III. ARGUMENT

7 A. The State of Washington and the Nez Perce Tribe May Intervene as 8 a Matter of Right

9 Under Fed. R. Civ. P. 24(a)(2), anyone may intervene by right if:

10 (1) it has a "significant protectable interest" relating to the property
11 or transaction that is the subject of the action; (2) the disposition of
12 the action may, as a practical matter, impair or impede the
13 applicant's ability to protect its interest; (3) the application is timely;
14 and (4) the existing parties may not adequately represent the
15 applicant's interest.

16 *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir. 1998). In determining
17 whether these requirements are met, courts "are guided primarily by practical
18 and equitable considerations." *Id.*

19 Courts are to take all well-pleaded, nonconclusory allegations in
20 the motion to intervene, the proposed complaint or answer in

21 ¹ The first claim seeks a declaratory judgment of Defendants' liability for
22 response costs. The third claim seeks natural resource damages, and the fourth
claim asserts that USDOE has breached a mandatory standard and a
nondiscretionary duty in regard to risk assessments it is performing at Hanford.

1 intervention, and declarations supporting the motion as true
2 absent sham, frivolity or other objections.

3 *Southwest Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 820 (9th Cir.
4 2001). In addition, "courts generally 'construe [] [the Rule] broadly in favor
5 of proposed intervenors.'" *United States v. City of Los Angeles*, 288 F.3d 391,
6 397-98 (9th Cir. 2002); see also *Berg*, 268 F.3d at 820; *City of Los Angeles*,
7 288 F.3d at 397-98 (quoting *Forest Conserv. Coun. v. U.S. Forest Serv.*, 66
8 F.3d 1489, 1496 n. 8 (9th Cir. 1995))("A liberal policy in favor of intervention
9 serves both efficient resolution of issues and broadened access to the courts.")

10 **1. The State of Washington and the Nez Perce Tribe Have a
11 Significant Protectable Interest**

12 Whether an applicant for intervention has a sufficient interest in the
13 action is a "practical, threshold" inquiry, and "[n]o specific legal or equitable
14 interest need be established." *City of Los Angeles*, 288 F.3d at 398. The
15 concern instead is with "disposing of lawsuits by involving as many
16 apparently concerned persons as is compatible with efficiency and due
17 process." *Id.* (quoting *County of Fresno v. Andrus*, 622 F.2d 436, 438 (9th
18 Cir. 1980)). "It is generally enough that the interest [asserted] is protectable
19 under some law, and that there is a relationship between the legally protected
20 interest and the claims at issue." *Berg*, 268 F.3d at 810 (quoting *Sierra Club
21 v. US EPA*, 995 F.2d 1478, 1484 (9th Cir. 1993). Washington and the Nez
22 Perce both have a direct, significant, and legally protectable interest in the
subject of this case.

1 Under CERCLA, the United States, the States, and Native American
2 tribes are trustees for natural resources, and may bring actions for damages to
3 natural resources. 42 U.S.C. § 9607(f)(1). A particular set of natural
4 resources may have multiple trustees. Washington and the Nez Perce are two
5 of several trustees of natural resources at Hanford.² *Id.* Insofar as the
6 Yakama Nation's action seeks a judgment declaring Defendants' liability for
7 the costs of a natural resource injury assessment at Hanford, Washington and
8 the Nez Perce have "a significant protectable interest relating to the property
9 or transaction that is the subject" of the Yakama Nation's action because any
10 injury assessment will likely examine natural resources for which they are
11 statutory trustees.

12 **2. Disposition of This Case May Impede the State of**
13 **Washington's and the Nez Perce's Tribe's Ability to Protect its**
14 **Interests**

15 "If an absentee would be substantially affected in a practical sense by
16 the determination made in an action, he should, as a general rule, be entitled to
17 intervene." *Berg*, 268 F.3d at 822 (quoting Fed. R. Civ. P. 24 advisory
18 committee notes to 1966 amendment).

19 Like the Yakama Nation, both the Nez Perce and Washington seek to
20 obtain funding to assess the extent of injury to natural resources at Hanford.

21 ² The other trustees are the United States, the Yakama Nation, Oregon,
22 and the Confederated Tribes of the Umatilla Indian Reservation.

1 The plaintiff trustees would work together to avoid inefficiencies and to pool
2 resources. Therefore, the outcome of this action for a declaration of
3 Defendants' liability for the costs of a natural resource injury assessment at
4 Hanford will have a major impact on Washington's and Nez Perce's ability to
5 protect its interests. Obtaining a timely natural resource injury assessment at
6 Hanford is important to both Washington and the Nez Perce because the
7 results of the injury assessment may have a significant impact on clean-up
8 decisions at this highly contaminated site. Further, it is not clear at Hanford
9 whether there is some overlap between Washington, the Nez Perce, and the
10 Yakama Nation as to trusteeship of certain natural resources. Therefore, if
11 Washington and the Nez Perce are not parties to this action, the disposition of
12 this action, to the extent it may determine the scope or nature of Defendant's
13 liability to fund an injury assessment at Hanford, will almost certainly impair
14 or impede their ability to protect their interests.

15 3. This Motion is Timely

16 In determining whether a motion to intervene is timely, the Court must
17 consider: "(1) the stage of the proceeding at which an applicant seeks to
18 intervene; (2) the prejudice to other parties; and (3) the reason for and length
19 of the delay." See *United States v. Alisal Water Corp.*, 370 F.3d 915, 921
20 (9th Cir. 2004) (quoting *Cal. Dep't of Toxic Substances Control v.*
21 *Commercial Realty Projects, Inc.*, 309 F.3d 1113, 1119 (9th Cir. 2002)). The
22 Yakama Nation's claim for a declaration of Defendants' liability for costs of a

1 natural resource injury assessment is contained in their Second Amended
2 Complaint, which is the subject of a motion currently before this Court.
3 Washington and the Nez Perce are seeking to intervene solely on Claim II of
4 the Yakama Nation's Second Amended Complaint, the request for a
5 declaratory judgment for the costs of an injury assessment. Because
6 intervention is sought before the Court has even ruled on the motion to amend
7 the complaint, this motion is clearly timely. Further, there are no pending trial
8 dates or briefing schedules in this matter.

9 **4. The Yakama Nation's Interests are not Identical to the**
10 **Interests of the State of Washington and the Nez Perce Tribe.**

11 The final factor to be considered is whether a potential intervenor's
12 interests will be adequately represented by an existing party. This factor
13 requires consideration of:

14 (1) whether the interest of a present party is such that it will
15 undoubtedly make all the intervenor's arguments; (2) whether the
16 present party is capable and willing to make such arguments; and
17 (3) whether the would-be intervenor would offer any necessary
18 elements to the proceedings that other parties would neglect.

19 *Berg*, 268 F.3d at 822. "[T]he requirement of inadequacy of representation is
20 satisfied if the applicant shows that representation of its interests 'may be'
21 inadequate and . . . the burden of making this showing is minimal."

22 *Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528 (9th Cir. 1983).

While the Yakama Nation, Washington, and the Nez Perce all seek a
declaration of the Defendants' liability for the costs of a natural resource

1 injury assessment at Hanford, their interests are not identical. The Yakama
2 Nation probably would not have standing to obtain a declaration of liability
3 against the Defendants in favor of either the Nez Perce or Washington for the
4 costs incurred by Washington or Nez Perce for an injury assessment.
5 Additionally, Yakama Nation, Nez Perce, and Washington are not necessarily
6 trustees for the same natural resources. For example, Washington is a trustee
7 for sediments in the Columbia River, while the Yakama Nation may not be a
8 trustee for those natural resources.

9 Further, Washington represents the interests of the people of the State
10 of Washington; the Nez Perce Tribe represents the interests of the Nez Perce
11 Tribal members. The Yakama Nation is a distinct and different type of entity,
12 and cannot be expected to represent all of Washington's interests. The
13 Yakama Nation, as natural resource trustees, represents the people of the
14 Yakama Nation with its own distinct and unique cultural and historical
15 interests with regard to the natural resources at Hanford. Additionally, the
16 Yakama Nation cannot be said to represent all Indian tribes in the Hanford
17 cleanup, as the Yakama Nation and the Nez Perce have taken differing
18 positions on a wide variety of issues throughout the Hanford cleanup process.

19 In sum, Washington and the Nez Perce bring a "necessary element" to
20 these proceedings. All requirements for intervention as a matter of right are
21 met, and Washington and the Nez Perce should be allowed intervention under
22 this first prong of Fed. R. Civ. P. 24.

1 **B. Alternatively, the State of Washington and the Nez Perce Tribe**
2 **Request Permissive Intervention**

3 In the alternative, Washington and the Nez Perce should be allowed to
4 intervene under Fed. R. Civ. P. 24(b)(2), which provides, in relevant part, that
5 intervention may be permitted "when an applicant's claim or defense and the
6 main action have a question of law or fact in common." Fed. R. Civ. P.
7 24(b)(2).

8 An applicant for intervention under this provision:

9 [M]ust prove that it meets three threshold requirements: (1) it
10 shares a common question of law or fact with the main action; (2)
11 its motion is timely; and (3) the court has an independent basis
12 for jurisdiction over the applicant's claims; and

13 *Donnelly*, 159 F.3d at 412. If these requirements are met, the Court has the
14 discretion to permit intervention, and in doing so "must consider whether
15 intervention will unduly delay the main action or will unfairly prejudice the
16 existing parties." *Id.*

17 Washington and the Nez Perce easily satisfy this test. First, as noted
18 above, this motion is timely. Second, Washington and the Nez Perce seek a
19 declaratory judgment that the Defendants are liable for the costs of a natural
20 resource injury assessment under CERCLA. This Court has original
21 jurisdiction over these claims. Third, the claim is based on the same law and
22 facts as the main action by the Yakama Nation. Washington and the Nez
cause of

1
2 action already plead by the Yakama Nation. Finally, since Washington, the
3 Nez Perce, and the Yakama Nation's claims are based on the same issues of
4 fact and law, the addition of Washington and Nez Perce's claims will not
5 result in any undue delay or prejudice. This is especially true here, since the
6 Court has not yet ruled on the Yakama Nation's motion to amend their
7 complaint to add this cause of action. On the contrary, principles of efficiency
8 and judicial economy strongly support the consolidation of claims in this
9 federal forum because if the motion to intervene is denied, Washington and
10 the Nez Perce will be forced to file an additional new lawsuit to seek redress
11 of this claim against the United States.

12 **C. Response to the United States' Memorandum in Opposition to**
13 **Yakama Nation's Motion for Leave to File Second Amended**
14 **Complaint**

15 Washington and the Nez Perce recognize that the Court will not rule on
16 this motion to intervene until after the March 10, 2006, hearing regarding the
17 Yakama Nation's motion to amend their complaint. However, because this
18 motion to intervene is contingent upon the Court granting the Yakama Nation's
19 motion to amend their complaint, we are partially responding at this time to
20 those arguments made in the United States' brief opposing the Yakama
21 Nation's motion that are relevant to this motion to intervene.
22

1 **1. 42 U.S.C. § 9613(G)(2) Provides for a Declaratory Judgment**
2 **Determining Liability for Injury Assessment Costs That is**
3 **Separate From a Claim for Natural Resource Damages**

4 The Defendants generally argue that the Yakama Nation's motion to add
5 a new cause of action for a declaratory judgment regarding liability for the costs
6 of an injury assessment should not be granted because the cause of action is
7 "futile," and the Court would be obligated to dismiss it. (U.S. Memorandum in
8 Opposition (U.S. Memo) at 16-17, 22-24). This argument is incorrect.

9 First, the Defendants incorrectly maintain that the Yakama Nation's
10 request for a declaratory judgment is really a claim for damages (U.S. Memo at
11 16, 23-24). This argument is contrary to the structure of 42 U.S.C. § 9613.
12 42 U.S.C. § 9613(g)(2) allows a separate cause of action "for recovery of costs"
13 that is distinct from the natural resource damages cause of action allowed in
14 42 U.S.C. § 9613(g)(1). Within 42 U.S.C. § 9613(g)(2) is a provision allowing
15 a "declaratory judgment on liability for response costs or **damages** that will be
16 binding on any **subsequent action** or actions to recover further response costs
17 or **damages.**" (Emphasis added).

18 Congress' use of the phrase "**subsequent action**" in 42 U.S.C.
19 § 9613(g)(2) demonstrates that they intended to create a separate cause of
20 action, distinct from a natural resource damages claim pursuant to 42 U.S.C.
21 § 9613(g)(1), allowing a declaratory judgment regarding liability for costs.
22 Within that separate cause of action for "costs" under 42 U.S.C. § 9613(g)(2),
Congress provided for a "declaratory judgment on liability for response costs or

1 **damages.** (Emphasis added). "Damages" under 42 U.S.C. § 9607(a)(4)(C)
2 specifically includes "the reasonable costs of assessing such injury." The
3 Defendants' interpretation of 42 U.S.C. § 9613(g)(2) ignores both the statutory
4 definition of "damages" in 42 U.S.C. § 9607(a)(4)(C), and the placement of the
5 statutory phrase "damages" in 42 U.S.C. § 9613(g)(2). This plain reading of the
6 statute demonstrates that Congress provided for the type of declaratory relief
7 requested by the Yakama Nation.

8 Here, the intervening trustees are not seeking damages. To the contrary,
9 our goal is the opposite. Our goal is to avoid the need to file a claim for natural
10 resource damages at Hanford. The reason the non-federal trustees are
11 requesting that an injury assessment be conducted before a final cleanup
12 remedy is chosen is to ensure that this information will be available to decision-
13 makers as the final remedy is being chosen. If the remedy chosen achieves the
14 restoration of natural resources, an action for damages by the non-federal
15 trustees may be avoided. This goal will be totally frustrated if, as argued by the
16 Defendants, the trustees must wait until the remedy is chosen to assess injury to
17 natural resources. At that point, the non-federal trustees only option will be to
18 file a suit for damages.

19 The trustees request for an injury assessment before the remedy is chosen
20 is the way Congress intended CERCLA cleanup actions to operate. As the
21 Defendants correctly note (U.S. Memo at 17, lines 4-6), CERCLA's legislative
22 history reflects that Congress recognized the final cleanup remedy chosen may

1 provide for the restoration or replacement of natural resources. This goal
2 cannot be achieved unless there is sufficient information to determine what
3 natural resources have been injured.³

4 Further, this is an issue of first impression. This appears to be the first
5 case where a party has brought an action for declaratory relief under 42 U.S.C.
6 §9613(g)(2) utilizing the fact that Congress has provided for an early
7 determination of liability for "damages" (including the costs of an injury
8 assessment). Tellingly, the Defendants do not cite any cases in support of its
9 argument that a determination of liability for injury assessment costs is not
10 allowed under the declaratory judgment portion of 42 U.S.C. § 9613(g)(2). The
11 mere fact that this issue is of first impression demonstrates that the Yakama
12 Nation's motion to amend their complaint is not "futile."

13 **2. Allowing the Amendment of the Yakama Nation's Complaint**
14 **will not Prejudice the Hanford Natural Resources Trustees**

15 Defendants argue that, even if the Yakama Nation's motion is not
16 "futile," both it and the other Hanford Natural Resources Trustees will be
17 prejudiced if the Yakama Nation's motion to amend is granted. U.S. Memo at
18 25-30. This argument should be rejected for several reasons. First, as noted in

19 _____
20 ³ The Defendants also correctly note (U.S. Memo at 8) that USDOE's
21 internal policy requires an "integration" of natural resource damage concerns
22 into the selection of a final cleanup remedy.

1 the attached affidavits from the trustee representatives from the Nez Perce,
2 Oregon, and Washington, the United States does not speak for the non-federal
3 trustees, and the non-federal trustees do not feel that they will be prejudiced if
4 the Yakama Nation's motion is granted.

5 Second, contrary to Defendant's argument (U.S. Memo at 26-27),
6 Washington and the Nez Perce are not moving to intervene because they feel
7 their rights to damages will be prejudiced if the Yakama Nation litigates these
8 issues at this time. Indeed, if the Defendants were correct on this issue, this
9 motion to intervene would also request intervention as to the Yakama Nation's
10 natural resource damage claims, rather than being limited to the declaratory
11 judgment cause of action.

12 Third, allowing amendment of the Yakama Nation's complaint will not
13 interfere or disrupt the ongoing administrative process at Hanford (U.S. Memo
14 at 27). As noted in the attached affidavit from Mr. Goldstein of Washington,
15 this litigation was first filed in 2002, and has not interfered with the
16 administrative process yet. More importantly, the reason Washington and the
17 Nez Perce are requesting intervention in this action is the result of their
18 frustration with the "administrative process" at Hanford. For the past few
19 years, all of the non-federal trustees have consistently requested that an injury
20 assessment be funded and conducted. USDOE has consistently refused to
21 consider this request. Affidavit of Lawrence S. Goldstein at 3. The U.S. is
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incorrect in arguing that granting the Yakama Nation's motion will disrupt the work of the Trustee Council.

IV. CONCLUSION

For the foregoing reasons, the State of Washington and the Nez Perce Tribe respectfully request that this Court grant their motion for intervention.

DATED this 2nd day of March, 2006.

ROB McKENNA
Attorney General

s/Elliott Furst
ELLIOTT FURST, WSBA #12026
Senior Counsel
(360) 586-3513

s/Elliott Furst
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PROOF OF SERVICE

I hereby certify that on March 2, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record.

DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
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s/Elliott Furst
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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON

16 CONFEDERATED TRIBES AND
17 BANDS OF THE YAKAMA
18 NATION, LEWIS CLOUD,
19 CHAIRMAN OF THE YAKAMA
20 NATION TRIBAL COUNSEL,

21 Plaintiff,

22 v.

23 UNITED STATES OF AMERICA
24 DEPARTMENT OF ENERGY,
25 and UNITED STATES OF
26 AMERICA DEPARTMENT OF
27 DEFENSE,

28 Defendants.

No. CY-02-3105-LRS

STATE OF WASHINGTON
AND NEZ PERCE TRIBE'S
MOTION TO INTERVENE

29 Pursuant to Fed. R. Civ. P. 24, the State of Washington (Washington) and
30 the Nez Perce Tribe hereby move this court to intervene in this action and assert
31 those claims set out in its complaint in intervention filed with this motion.
32

1 Specifically, the Nez Perce Tribe and Washington seek intervention as a matter
2 of right under Rule 24(a), and alternatively requests permissive intervention
3 under Rule 24(b).

4 Pursuant to Local Rule 7.1(b), Washington and the Nez Perce Tribe's
5 points and authorities are set out in a separate memorandum filed
6 contemporaneously with this motion. Pursuant to Local Rule 10.1(f), a
7 proposed order is also separately submitted.

8 DATED this 2nd day of March, 2006.

9
10 ROB McKENNA
Attorney General

11
12 s/ Elliott Furst
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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON

16 CONFEDERATED TRIBES AND
17 BANDS OF THE YAKAMA
18 NATION, LEWIS CLOUD,
19 CHAIRMAN OF THE YAKAMA
20 NATION TRIBAL COUNSEL,

21 Plaintiff,

22 v.

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY,
and UNITED STATES OF
AMERICA DEPARTMENT OF
DEFENSE,

Defendants.

No. CY-02-3105-LRS

STATE OF WASHINGTON
AND THE NEZ PERCE TRIBE'S
NOTICE OF HEARING RE:
MOTION TO INTERVENE

20 Pursuant to local rule 7.1(h), the State of Washington and the Nez Perce
21 hereby notice a hearing on their motion to intervene in the above-referenced
22 matter. The time and location of the hearing is noted as follows:

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RE: Motion to Intervene pursuant to Fed. R. Civ. P. 24
Date: Thursday, April 6, 2006
Time: 6:30 p.m.
Location: United States District Court
Eastern District of Washington
920 West Riverside, Room 840
Spokane, WA 99201
(509) 353-2150

RESPECTFULLY SUBMITTED this 2nd day of March, 2006.

ROB McKENNA
Attorney General

s/ Elliott Furst
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s/ Elliott Furst
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DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
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10 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

11 CONFEDERATED TRIBES AND
12 BANDS OF THE YAKAMA
NATION, LOUIS CLOUD,
13 CHAIRMAN OF YAKAMA
14 NATION, TRIBAL COUNCIL,

15 Plaintiffs,

16 v.

17 UNITED STATES OF AMERICA,
DEPARTMENT OF ENERGY,
18 DEPARTMENT OF DEFENSE,

19 Defendants.

NO. CY-02-3105-LRS

ORDER GRANTING THE STATE
OF WASHINGTON AND NEZ
PERCE TRIBE'S MOTION TO
INTERVENE PURSUANT TO
FED.R.CIV.P. 24 (PROPOSED)

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1 THIS COURT, after considering the motion of Intervenor Plaintiff State
2 of Washington (Washington) and the Nez Perce Tribe to intervene pursuant to
3 Fed.R.Civ.P. 24,

4 HEREBY ORDERS:

5 1. Washington and the Nez Perce Tribe have a "significant protectable
6 interest" relating to the declaration of the liability of the Defendants for costs of
7 natural resource damages injury assessment at Hanford; the disposition of this
8 action may, as a practical matter, impair or impede Washington and the Nez
9 Perce Tribe's ability to protect their interests; Washington and the Nez Perce
10 Tribe's application for intervention is timely; and the existing parties may not
11 adequately represent Washington and the Nez Perce Tribe's interests.
12 Washington and the Nez Perce Tribe are entitled to intervene in this action as a
13 matter of right, and Washington and the Nez Perce Tribe's motion to intervene
14 pursuant to Fed.R.Civ.P. 24 (a)(2) is, therefore, GRANTED.

15 2. In addition, because this motion is timely the court has jurisdiction
16 over Washington and the Nez Perce Tribe's claims and because those claims
17 present common questions of law and fact, Washington and the Nez Perce Tribe
18 may also intervene permissively pursuant to Fed. R. Civ. P. 24 (b).

19 SO ORDERED this ____ day of March, 2006.

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LONNY R. SUKO, JUDGE
United States District Court

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Presented by:

ROB McKENNA
Attorney General

s/ Elliott Furst
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DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
Attorney General

s/ Elliott Furst
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14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF WASHINGTON

16 CONFEDERATED TRIBES AND
17 BANDS OF THE YAKAMA
18 NATION, LEWIS CLOUD,
19 CHAIRMAN OF THE YAKAMA
20 NATION TRIBAL COUNSEL,
21
22 Plaintiff,

v.

23 UNITED STATES OF AMERICA
24 DEPARTMENT OF ENERGY,
25 and UNITED STATES OF
26 AMERICA DEPARTMENT OF
27 DEFENSE,
28
29 Defendants.

No. CY-02-3105-LRS

COMPLAINT IN
INTERVENTION BY THE
STATE OF WASHINGTON AND
THE NEZ PERCE TRIBE

42 U.S.C. § 9601 et seq.

PRELIMINARY STATEMENT

1. This is a Complaint in Intervention in an existing civil action that was brought pursuant to the Comprehensive Environmental Response,

1 Compensation and Liability Act, 42 U.S.C. § 9601 et. seq. (CERCLA or
2 "Superfund"). Intervenor Plaintiffs' Washington and Nez Perce Tribe,
3 intervention is limited to Plaintiff Yakama Nation's Proposed Second Amended
4 Complaint "SECOND CLAIM FOR RELIEF-NATURAL RESOURCE
5 INJURY ASSESSMENT COSTS-DECLARATORY JUDGMENT".
6 Intervenor Plaintiffs seek declaratory relief pursuant to 42 U.S.C. §9613 (g) (2)
7 regarding the Superfund cleanup of the facilities located within the Hanford
8 Site, also known as the Hanford Nuclear Reservation (Hanford) in south-central
9 Washington.

10 JURISDICTION AND VENUE

11 2. Subject matter jurisdiction over this claim is conferred by 42
12 U.S.C. §§ 9607, 9613(b), 9626, 9659 and 28 U.S.C. §§ 1331 and 1362.

13 3. Declaratory relief for this claim? is authorized specifically by 42
14 U.S.C. 9613(g)(2) and generally by 28 U.S.C. §§ 2201, 2202.

15 4. Defendants have waived sovereign immunity, 42 U.S.C.
16 9620(a)(1).

17 5. Venue is proper in this Court pursuant to 42 U.S.C. § 9613(b) and
18 28 U.S.C. § 1391.

19 PARTIES

20 6. Plaintiff State of Washington is a trustee over natural resources
21 within the State of Washington, and is specifically authorized to act as a natural
22 resource damages trustee at CERCLA sites pursuant to 42 U.S.C. §9607 (f).

1 7. Plaintiff Nez Perce Tribe is a federally recognized Indian Tribe,
2 within the definition of "Indian tribe" in 42 U.S.C. § 9601(36), whose historical
3 territory encompassed much of North-Central Idaho, Eastern Washington,
4 Northeastern Oregon and Southwestern Montana. The Nez Perce Tribe's 1855
5 Treaty with the United States acknowledged and guaranteed a variety of
6 retained off-reservation hunting, fishing, gathering and pasturing rights. Treaty
7 with the Nez Percés, June 9, 1855, 12 Stat. 957 (1859). The Hanford Nuclear
8 Reservation affects many lands and resources impressed with the Tribe's treaty
9 reserved rights. Indian tribes are specifically authorized to bring such actions as
10 this pursuant to CERCLA.

11 8. Current Plaintiff, Confederated Tribes and Bands of the Yakama
12 Nation (Yakama Nation), is a federally recognized Indian tribe, and is within
13 the definition of "Indian tribe" in 42 U.S.C. § 9601(36), 60 FR 9249-9255
14 (1995). Indian tribes are specifically authorized to bring such actions as this
15 pursuant to CERCLA.

16 9. Defendant, the United States of America (United States), is the
17 governing body of this country created by the United States Constitution. It
18 holds title to federal lands and is responsible for the actions of its various
19 departments.

20 10. Defendant, the Department of Energy, is a department and agency
21 of the United States. The Department, and the federal entities merged into it,
22

1 have had specific responsibilities for the nuclear operation at the Hanford Site
2 since the 1940s.

3 11. Defendant, the Department of Defense, is one of the departments
4 or agencies of the United States. The Department, and the federal entities
5 merged into it, have had specific responsibilities for the nuclear and defense
6 operations at the Hanford Site since the 1940s.

7 FACTS

8 12. In 1943 the United States consolidated land it owned with newly
9 purchased land in south-central Washington for what has been referred to as the
10 Hanford Nuclear Reservation or Hanford Site. The United States remains the
11 owner of the Hanford Site.

12 13. Since 1943 the Defendants have carried out various aspects of its
13 nuclear program at the Hanford Site. This included the creation/production of
14 plutonium and other radionuclides for the United States' nuclear weapons
15 program.

16 14. To carry out its activities, the Defendants constructed or used
17 various buildings, structures, installations, equipment, pipes and pipelines,
18 wells, pits, ponds, lagoons, impoundments, ditches, landfills, storage containers,
19 motor vehicles, and rolling stock at the Hanford Site.

20 15. Defendants released hazardous substances, as defined by 42 U.S.C.
21 § 9601(14), and further listed at 40 CFR § 302.4, from the above facilities.

22 Such hazardous substances have been deposited, stored, disposed of, placed, or

1 otherwise come to be located at the Hanford Site and at other locations
2 downstream, downwind and elsewhere outside of the Hanford Site.

3 16. On June 24, 1988, four separate facilities on the Hanford Site were
4 proposed for listing by the Environmental Protection Agency (EPA) on the
5 National Priorities List (NPL) as areas to be cleaned up under CERCLA's
6 Superfund program, 53 FR 23988. These were the Hanford 100 Area facility (9
7 nuclear reactors and related operations), Hanford 200 Area facility (processing
8 plants where plutonium and other radionuclides were removed from the nuclear
9 fuel rods for bomb making and other purposes), Hanford 300 Area facility
10 (plants where the fuel rods were fabricated) and the Hanford 1100 Area facility
11 (various disposal areas, former missile sites, anti-aircraft batteries, etc.). After
12 notice and comment period, all four areas were listed on EPA's NPL on October
13 4, 1989. 54 FR 41015.

14 17. Defendants are the "owner and operator" of the Hanford 100, 200,
15 300 and 1100 Area facilities. 42 U.S.C. §§ 9601(20), 9607(a),(1).

16 18. Hazardous substances have been and continue to be released
17 and/or disposed of at or by Hanford 100, 200, and 300 Area facilities and at
18 other locations on the Hanford Site owned or operated by Defendants at the
19 time of release and/or disposal. 42 U.S.C. §§ 9601(9), 9607).

20 19. Some of the hazardous substances released and/or disposed of at or
21 by the Hanford 100, 200, and 300 and Area facilities have become commingled
22 with each other and with other hazardous substances from other sources.

1 20. The release of hazardous substances from the facilities at the
2 Hanford Site has resulted in the injury of natural resources as defined in 42
3 U.S.C. §§ 9607(a)(4)(C), 9607(f).

4 21. The release of hazardous substances at the Hanford Site has been a
5 contributing factor in the injury to, destruction of, or loss of natural resources.

6 22. Natural resources set out in U.S.C. § 9601(16) are or have been a
7 pathway of hazardous substances released, and have incurred injury or are
8 likely to incur injury in the future as a result of the releases of hazardous
9 substances such as radionuclides and chromium from the Defendants' facilities
10 at the Hanford Site.

11 23. The natural resources at Hanford and in the areas surrounding
12 Hanford, including the Columbia River, are natural resources "belonging to,
13 managed by, controlled by or appertaining" to the State of Washington and the
14 Nez Perce Tribe.

15 24. The State of Washington, the Nez Perce Tribe, and other state and
16 tribal and federal Hanford natural resource trustees have requested the
17 Department of Energy to fund the assessment of injury, loss or destruction of
18 natural resources resulting from Defendants' release of radionuclides and other
19 hazardous substances at Hanford. The Department of Energy has refused to
20 fund such assessment. The State of Washington has expended, and will
21 continue to expend its own funds on obtaining an assessment of natural
22 resource injury at Hanford.

1 25. The injury and damages referred to herein occurred both before
2 and after December 11, 1980. Injury and damages that occurred pre-1980
3 continue to exist and will exist in the future.

4 CLAIM FOR RELIEF - NATURAL RESOURCE INJURY
5 ASSESSMENT COSTS - DECLARATORY JUDGMENT

6 26. The allegations of all other paragraphs are hereby re-alleged and
7 incorporated herein by reference.

8 27. The State of Washington and the Nez Perce Tribe are entitled to
9 the entry of a declaratory judgment declaring Defendants to be liable to the
10 State of Washington and the Nez Perce Tribe for all past and future natural
11 resource injury assessment costs. 42 U.S.C. §§ 9613(g)(2), 9607(a)(4)(C).

12 28. The State of Washington and the Nez Perce Tribe are entitled to
13 the entry of a money judgment against Defendants, jointly and severally, for the
14 cost of assessing the injury, destruction or loss of natural resources resulting
15 from Defendants release of radionuclides and other hazardous substances at
16 Hanford. 42 U.S.C. §§ 9607(a)(4)(C), 9607(f).

17 REQUEST FOR RELIEF

18 WHEREFORE, the State of Washington and the Nez Perce Tribe
19 respectfully requests the Court:

20 1. Enter declaratory judgment in favor of the Plaintiffs declaring
21 Defendants liable to the Plaintiffs for all past and future natural resource injury
22 assessment costs. 42 U.S.C. § 9613 (g)(2).

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2. Enter judgment in favor of the State of Washington and the Nez Perce Tribe against the Defendants jointly and severally for pre-and-post judgment interest and for all other costs of this suit, including reasonable attorney fees incurred by the State of Washington and the Nez Perce Tribe.

3. Grant such other and further relief as the Court deems just and proper.

DATED this 2nd day of March, 2006.

ROB McKENNA
Attorney General

s/ Elliott Furst
ELLIOTT FURST, WSBA #12026
Senior Counsel
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s/ Elliott Furst
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s/ Elliott Furst
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PROOF OF SERVICE

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DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
Attorney General

s/ Elliott Furst
ELLIOTT FURST, WSBA #12026
Senior Counsel
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Attorney General

s/ Elliott Furst
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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF WASHINGTON**

10 CONFEDERATED TRIBES AND
11 BANDS OF THE YAKAMA
12 NATION, LEWIS CLOUD,
13 CHAIRMAN OF THE YAKAMA
14 NATION TRIBAL COUNSEL,

15 Plaintiff,

16 v.

17 UNITED STATES OF AMERICA
18 DEPARTMENT OF ENERGY,
19 UNITED STATES OF AMERICA
20 DEPARTMENT OF DEFENSE,

21 Defendants.

NO. CY-02-3105-LRS

AFFIDAVIT OF DANIEL S.
LANDEEN

22 I, DANIEL S. LANDEEN, do hereby swear and affirm as follows:

A. I am now, and at all times mentioned have been a citizen of the United States, and am a resident of the State of Washington, over the age of eighteen years,

1 competent to make this affidavit, and make this affidavit from my own personal
2 knowledge, judgment and professional experience.

3 B. I have been employed with the Nez Perce Tribe, in the Environmental
4 Restoration and Waste Management Department (ERWM), for eleven years,
5 beginning in 1995.

6 C. I am the Nez Perce Tribe's representative on the Hanford Natural
7 Resources Trustee Council. I have served on the Trustee Council since 1995, and I
8 regularly attend their meetings.

9 D. I am familiar with both the positions held by the Department of Energy
10 (DOE) in the Trustee Council, and with the arguments made by the United States in
11 their brief opposing the Yakama Nation's motion to amend their complaint in the
12 above entitled case. In both forums, the United States argues that the other trustees
13 in the Trustee Council will be prejudiced if the Yakama Nation's motion to amend
14 is granted. I take issue with this position for a number of reasons.

15 E. First, the United States does not speak for the non-federal trustees in this
16 matter, and the Nez Perce Tribe specifically does not agree with this position.

17 F. Second, rather than being prejudiced by the Yakama litigation, the Nez
18 Perce Tribe believes that its interests will be adversely affected if the litigation is
19 not allowed to proceed. This is because the Tribe believes the DOE will not
20 conduct or fund natural resource injury assessment studies at Hanford unless
21 ordered to do so by a court. DOE has repeatedly declined invitations to fund and
22 conduct natural resource injury assessment studies.

1 G. Additionally, I do not believe that this litigation will have any impact
2 on the administrative process at Hanford. Rather, it is DOE's refusal to
3 cooperatively work on the injury assessment question that has impeded the Trustee
4 Council the most. For the past few years, the trustees have been forced to
5 repeatedly tangle with DOE over the injury assessment issue. The Nez Perce Tribe
6 has repeatedly asked for these studies in both the Trustee Council meetings, and in
7 the Hanford Data Quality Objectives process. DOE's failure to engage the trustees
8 on the statutorily required injury assessment work has cost the Council in terms of
9 spent resources and time, as well as a decreased level of trust between the non-
10 federal trustees and DOE.

11 H. I also disagree with the United States' position that a judicial order
12 requiring injury assessments to proceed could lead to a duplication of efforts, a
13 chilling effect on current efforts, or otherwise interfere with the administrative
14 process. It is my professional judgment that integrating the injury assessment data
15 collection into the process at an early stage is more efficient in terms of time,
16 money, and quality of data collected. It is DOE's failure to integrate the injury
17 assessment into the ongoing process that may lead to a duplication of effort and
18 unnecessary waste of resources.

19 I. While the U.S. brief correctly states that the Hanford Natural Resource
20 Trustee Council concluded not to proceed with a full natural resource damage
21 assessment in the 1100 Area, the Nez Perce Tribe issued a Preassessment Screen
22 Determination that concluded a natural resource damage assessment should be

1 conducted because of the significant injuries incurred in the 1100 area. Nez Perce
2 Tribe 1100 Area PAS, Part V. Based on the documented injuries incurred in the
3 remaining operable units, the Nez Perce Tribe believes that a natural resource
4 damage assessment should be conducted for the 100, 200, and 300 areas as well.

5
6 DATED this 1st day of March, 2006, in Lapwai, Idaho.

7 Daniel S. Landeen
8 DANIEL S. LANDEEN

9 Subscribed and sworn to before me on March 1, 2006 by
10 Daniel S. Landeen.

11 DATED this 1st day of March 2006.

12 Marlene Trumbo
13 Notary Public in and for the State
14 Idaho, residing at Lewiston
15 My appointment expires 10-30-2007



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PROOF OF SERVICE

I hereby certify that on March 2, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record.

DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
Attorney General

s/ Elliott Furst
ELLIOTT FURST, WSBA #12026
Senior Counsel
(360) 586-3513

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

**CONFEDERATED TRIBES AND
BANDS OF THE YAKAMA
NATION, LEWIS CLOUD,
CHAIRMAN OF THE YAKAMA
NATION TRIBAL COUNSEL,**

Plaintiff,

v.

**UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY,
UNITED STATES OF AMERICA
DEPARTMENT OF DEFENSE,**

Defendants.

**NO. CY-02-3105-LRS
AFFIDAVIT OF KEN NILES**

I, KEN NILES, do hereby swear and affirm as follows:

A. I am now, and at all times mentioned have been a citizen of the United States, and am a resident of the State of Oregon, over the age of eighteen years, competent to make this affidavit, and make this affidavit from my own personal knowledge, judgment and professional experience.

1 B. I am the Assistant Director of the State of Oregon's Department of
2 Energy and have served in that capacity for three years, during which time I have
3 overseen the Department's participation in Hanford clean-up efforts. One important
4 venue for that participation is the Hanford Natural Resources Trustee Council.

5 C. I am familiar with the United States' arguments in opposition to the
6 Yakama Nation's motion to amend their complaint in the captioned case. The
7 United States generally contends that both it and the other Trustees will be
8 prejudiced if the Yakama Nation's motion to amend is granted. For the reasons that
9 follow, that contention is without merit.

10 D. First, the United States does not speak for the non-federal trustees in
11 this matter. Specifically, the United States does not speak for the State of Oregon.

12 E. Moreover, the amendment will not interfere with the ongoing
13 administrative process at Hanford. There has been natural resource damage
14 litigation pending since 2002 when the Yakama Nation first filed its lawsuit, and it
15 has not interfered with the administrative process to date.

16 F. That is not to suggest that the administrative process has been
17 unimpeded. To the contrary, that process has been hampered by a lack of resources
18 and by U.S. Department of Energy (DOE) resistance to beginning injury assessment
19 work, resulting in a growing concern by Oregon that this important work will not be
20 addressed in time to effectively protect natural resources at Hanford.

21 G. The United States is also incorrect in stating that allowing the Yakama
22 Nation's declaratory judgment action regarding injury assessments to proceed could

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lead to a duplication of efforts, a chilling effect on current efforts, or otherwise interfere with the administrative process. It is our hope that DOE will ultimately be willing to work in a collaborative manner with all of the other trustees in conducting an injury assessment.

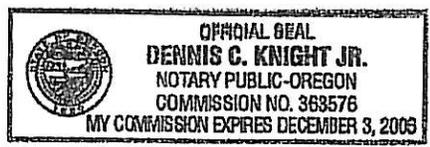
H. For all of those reasons, Oregon rejects and disavows the United States' claim to speak on Oregon's behalf. Moreover, Oregon specifically rejects the United States' claim that Oregon's interests as a natural resource trustee may be prejudiced by Yakama Nation's proposed amendment of its complaint.

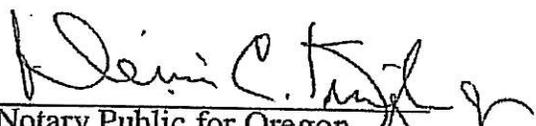
DATED this 20th day of February, 2006.



KEN NILES

SUBSCRIBED AND SWORN to before me this 28th day of February, 2006.





Notary Public for Oregon
My Commission Expires: 12/3/06

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PROOF OF SERVICE

I hereby certify that on March 2, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record.

DATED this 2nd day of March, 2006, in Olympia, Washington.

ROB McKENNA
Attorney General

s/ Elliott Furst
ELLIOTT FURST, WSBA #12026
Senior Counsel
(360) 586-3513

1 ELLIOTT FURST
NELS JOHNSON
2 Assistant Attorneys General
PO Box 40117
3 Olympia, WA 98504-0117
Phone: (360) 586-6770
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7 **UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

8 CONFEDERATED TRIBES
AND BANDS OF THE
9 YAKAMA NATION, LEWIS
CLOUD, CHAIRMAN OF THE
10 YAKAMA NATION TRIBAL
COUNSEL,

11 Plaintiff,

12 v.

13 UNITED STATES OF
14 AMERICA DEPARTMENT OF
ENERGY, UNITED STATES OF
15 AMERICA DEPARTMENT OF
DEFENSE,

16 Defendants.
17

NO. CY-02-3105-LRS

**AFFIDAVIT OF LAWRENCE
S. GOLDSTEIN**

18 I, LAWRENCE S. GOLDSTEIN, do hereby swear and affirm as follows:
19 A. I am now, and at all times mentioned have been a citizen of the
20 United States, and am a resident of the State of Washington, over the age of
21 eighteen years, competent to make this affidavit, and make this affidavit from my
22 own personal knowledge, judgment and professional experience.

AFFADAVIT OF LAWRENCE S.
GOLDSTEIN

1

ATTORNEY GENERAL OF WASHINGTON
Ecology Division
PO Box 40117
Olympia, WA 98504-0117
FAX (360) 586-6760

1 B. I have been employed with the State of Washington, Department of
2 Ecology (Ecology) for twenty years beginning on June 17, 1985.

3 C. I have worked in Ecology's Nuclear Waste Program for
4 approximately eleven years.

5 D. I am Washington's representative on the Hanford Natural Resources
6 Trustee Council. I have served on the Trustee Council since 1999, and I
7 regularly attend their meetings.

8 E. I have reviewed the United States' brief opposing the Yakama Nation's
9 motion to amend their complaint in the above-entitled case. On pages 25-29 of
10 the brief, the United States generally argues that both it and the other Trustees
11 will be prejudiced if the Yakama Nation's motion to amend is granted. First, the
12 United States does not speak for the non-federal trustees in this matter.

13 F. Second, contrary to the argument on pages 26-27, Washington is not
14 moving to intervene because we believe our right to damages will be prejudiced
15 if the Yakama Nation litigates these issues at this time (if this were so, we would
16 be requesting intervention as to all of the Yakama Nation's claims). Instead,
17 Washington is moving to intervene because we do not believe the Department of
18 Energy (DOE) will conduct or fund an assessment of injury to natural resources
19 at Hanford unless ordered to do so by a court. Washington and the other
20 non-federal and federal trustees have been arguing with DOE about this issue for
21 several years.

1 G. Further, there will not be any interference with the ongoing
2 administrative process at Hanford as argued by the U.S. on page 27. There has
3 been natural resource damage litigation pending since 2002 when the Yakama
4 Nation first filed its lawsuit, and it has not interfered with the administrative
5 process to date. More importantly, the reason Washington is intervening in this
6 action is the result of our frustration with the "administrative process" at
7 Hanford. For the past few years, we have consistently requested that an injury
8 assessment be conducted. DOE has consistently refused. If we thought we could
9 resolve these issues through the "administrative process," we would not be
10 intervening in this matter. Therefore, the United States is incorrect in arguing
11 that granting the Yakama Nation's motion will disrupt the work of the Trustee
12 Council. It is the lack of progress on the issue of injury assessment that disrupts
13 the work of the Trustee Council, not this litigation.

14 H. DOE states on page 28 that it is incorporating "natural resource
15 concerns" into the ecological risk assessments at Hanford. This is incorrect.
16 While the term "natural resource concerns" is vague, there is reference to specific
17 DOE policy. The referenced policy states that, "Throughout the remedy selection
18 process, project managers should coordinate and maintain an ongoing dialogue
19 with the trustees on potential natural resource injuries." DOE has consistently
20 refused to fund data collection or even discuss potential injury to natural
21 resources at Hanford.

22

1 I. Similarly, the United States is also incorrect in stating on page 28 that
2 allowing the Yakama Nation's declaratory judgment action regarding injury
3 assessments to proceed could lead to a duplication of efforts, a chilling effect on
4 current efforts, or otherwise interfere with the administrative process. It is our
5 hope that DOE will ultimately be willing to work in a collaborative manner with
6 all of the other trustees in conducting an injury assessment. If not, then the
7 remaining trustees will work together to avoid duplicating efforts, etc.

8 J. The U.S. brief correctly states on page 29 that the Council concluded
9 not to proceed with a full natural resource damage assessment in the 1100 Area.
10 However, the primary reason was lack of adequate data and resistance by DOE to
11 collect more data. The Preassessment Screen Determination Criteria #5 response
12 was, "The trustees believe that natural resource injury has occurred or may be
13 occurring at waste sites within the 1100 Area. The trustees, with the exception of
14 DOE, do find that residual contamination within the 1100 Operable Unit waste
15 sites indicates the need for a long-term post-cleanup biomonitoring program to
16 ensure natural resources are not adversely affected." Council Finding 00-01
17 which certified this Determination was adopted by consensus with 0 abstentions
18 or separate opinions.

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I swear and affirm under penalty of perjury under the laws of the State of Washington and federal law that the foregoing is true and correct.

DATED this 24th day of February, 2006, in Olympia, Washington.

Lawrence S. Goldstein
LAWRENCE S. GOLDSTEIN

Subscribed and sworn to before me on February 24, 2006 by Lawrence S. Goldstein.

DATED this 24th day of February 2006.



Jean A. Witt
Notary Public in and for the State Washington,
Shays Harbor
Commission expires *4-28-08*

9:25

800 MHZ RADIO ISSUES

Due to encroachment into public safety frequencies by Sprint/Nextel, they are required by the FCC to provide rebanding of all 800 MHz public safety radio systems nationwide. They will accomplish this project with the assistance of Motorola. The timeline I am aware of is that it is supposed to happen by June of 2008.

The re-banding in most cases consists of a technician plugging into an existing radio with his computer and feeding it a new software revision. The actual work won't take long. All the radios currently owned and used on the Law Enforcement side of the Sheriff's Office are capable of rebanding in this manner.

However, there are lower tier (quality/features) radios on the system that are not capable of this upgrade and therefore will need to be replaced – insufficient memory, features, etc. The majority of these radios are owned by the Jail (portables – approx 61) and by the Public Works (road) Department (77 mobiles, 18 portables). For a relatively small fee, Motorola will upgrade those radios to a model that can be rebanded AND will be Program 25 (P25) compliant. P25 compliant meaning that they are capable of operating in an analog or digital system.

We currently work on the analog system and are considering upgrading to digital. (The current analog system is old and very difficult to find replacement parts).

The upgrade (trade-in) fees are:

XTS2500 RB Portable to XTS2500 Model II P25/Analog	\$329
XTL2500 RB Mobile to XTS2500 P25/Analog	\$618

Reasons to taking advantage of the upgrade:

Tremendous savings over the purchase of full price mobile and portable radios.

P25 compliant to be ready for the digital change over.

New radios that have warranties - so you can suspend the maintenance contract with Day Wireless for a year or two. (This will save about \$1200 a month out of the radio maintenance budget.)

The road department is leaving the 800 MHz system and therefore has made their upgradeable radios available to us for trade in. The 77 mobiles they own would become ours and we then trade them in for the new radios. When the radios arrive, we install them into our patrol vehicles in place of the current radio. It is important that the current radio be rebanded so that they will still be usable and therefore we will be able to sell them as excess (perhaps for the amount of the upgrade???).

The re-banding project is being handled at SECOMM by Val Eveland and Dulcie Lamb.

Cost to upgrade 73 road department mobile radios would be approximately \$68,108.32 including wsst. This **does not** include any costs for installs or other labor... The road department wants to keep their 18 portables, so none of the portable upgrades can come from that source.

Cost to upgrade 61 portable radios would be \$21,734.72 including wsst.

Because our current (Law Enforcement side) portables (approx. 63) were "high quality" when purchased, they are not eligible for any upgrade trade in and replacing those will be expensive – approx \$3,005.64 each.

Day Wireless is working on a price quote for the entire package and should have it completed early next week. We still need to reband our current radios though, so we can continue to use them until the changeover to digital.

Steve Keane
Bureau Captain
Benton County Sheriff's Office
7122 W. Okanogan Pl., Bldg. A
Kennewick, WA 99336

BENTON COUNTY SHERIFF'S OFFICE

2008 PROPOSAL - TABLE 1 800MHz REBAND PROJECT
 2009 COST - TABLE 2 DIGITAL UPGRADE NOT PARTICIPATING IN UPGRADE PROJECT
 TOTAL PROJECTED SAVINGS

\$ 325,588.13
 721,576.63
\$ 395,988.50

2008 PROPOSAL

TABLE 1 - 800MHz REBAND PROJECT

QTY	DEPT.	REQ QTY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE	SALES TAX	TOTAL
1	Jail	59	RB UPGRADE	XTS2500 DIGITAL INTEROP PORTABLE UPGRADE	\$329.00	\$19,411.00	\$1,611.11	\$21,022.11
1	Patrol/Jail	77	RB UPGRADE	XTL2500 DIGITAL INTEROP MOBILE UPGRADE	618.00	47,586.00	3,949.64	51,535.64
1	Patrol/Jail	77		REMOTE MOUNT	243.50	18,749.50	1,556.21	20,305.71
1	Patrol	63	Full Cost	XTS2500 Portable including associated costs	3,077.19	193,862.97	16,090.63	209,953.60
1	Patrol	6	Full Cost	XL T2500 Mobile including associated costs	3,504.32	21,025.92	1,745.15	22,771.07
				TOTAL	\$7,772.01	\$300,635.39	\$24,952.74	\$325,588.13

*Table 1 reflects the cost if upgraded subscriber equipment is purchased during the 800MHz Reband Project
 Note: Does not include equipment removal or install fees.

733,000

COST OF DIGITAL UPGRADE IF 2008 REBAND/UPGRADE NOT UTILIZED

TABLE 2 - DIGITAL UPGRADE

QTY	DEPT.	REQ QTY	MODEL	DESCRIPTION	UNIT PRICE	TOTAL PRICE	SALES TAX	TOTAL
1	Patrol/Jail	122	XTS2500	XTS2500 Portable including associated costs	\$3,077.19	\$375,417.18	\$ 31,159.63	\$ 406,576.81
1	Patrol/Jail	83	XTL2500	XL T2500 Mobile including associated costs	3,504.32	290,858.56	24,141.26	314,999.82
				TOTAL	\$6,581.51	\$666,275.74	\$55,300.89	\$721,576.63

*Table 2 reflects the cost when subscriber equipment is purchased at time of Digital Upgrade (2009)
 **This price quote reflects this years pricing; may not be the same next year

733,000

Ross B. Dunfee, P.E.
Director / County Engineer
Steven W. Becken
Asst. Director / Asst. Co. Engineer

Benton County

Department of Public Works

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

Date: April 16, 2008

To: Board of County Commissioners

From: Ross Dunfee



Re: 800 MHz radios

Background

It is my understanding that re-banding of our radio system will occur in July-August of 2008 and conversion from analog to digital infrastructure will occur approximately one year later. Any radios to be used by Public Works will need to be re-banded this summer and converted to digital operation by next summer. Unless supported otherwise, Public Works will be transferring 77 existing mobile radios to the Sheriff's Office, upgrading 18 existing portable (hand-held) radios (re-banded and digitally compliant) and purchasing 4 new digital portable radios.

Operation

As mentioned in our October 26, 2007 memorandum to the Board (attached), it is my belief that Public Works does not need to be a participant in the radio system. The radios are not needed in Public Works for routine operations. Radios are used occasionally because they are available and Public Works has paid for their use. A much less expensive form of communication and equally reliable is simply to use cellular telephones.

Additionally, it is my belief that Public Works does not need to use the radio system for agency support in an emergency. As a reminder, Public Works is secondary support to emergency responders and not an emergency responder in its self. Consequently, Public Works being on the radio system in an emergency, could simply add communication congestion to the radio system when more important communication is needed on the radio system by the primary responder agencies. Again the cellular telephone system is likely the better choice for Public Works.

If communication in an emergency were to be hampered because of inoperative cellular telephone towers, the same demise would likely be true for radio towers. Therefore, Public Works using cellular telephone technology would be the cheaper mode of communication for routine and emergency operations without sacrificing response time in an emergency.

Re-banding

My limited understanding of re-banding is that new frequencies issued by the Federal Communication Commission will be used for our existing analog radios and our existing radios will need to be changed to the new frequencies. At the same time Public Works has the opportunity to upgrade from analog to digital for an additional cost. The cost for re-banding is

\$329/radio X 18 radios = \$5,922. These radios will be digital after the re-banding. That is, the digital upgrade is included in the re-banding.

Digital

Our road crew, road superintendents and equipment shops will use twenty-two portable radios for occasional use if Public Works is to communicate using the radio system during an emergency. Again, cellular telephones would be a better alternative and it is recommended that Public Works relinquish all radios. Public Works currently has eighteen portable radios. The cost to upgrade to digital radios is: \$3,077.19/radio X 4 radios = \$12,308.76.

Other Capital Costs

In addition to the re-banding and digital upgrade, Public Works will need to purchase radio chargers, belt holders, speaker/microphones and holders for operation in equipment. Ultimately, the radio and equipment cost will be around \$20,000 minus labor costs.

Annual Operation Cost

An e-mail from Valerie Eveland at Emergency Services states that the annual operation cost of \$12/month/radio is not anticipated to change in the near term however, "At some point the BCES Executive Board will have to determine an appropriate funding structure to maintain the 800MHz digital system." Reading between the lines, I suspect that the annual 800MHz system operation cost per radio will increase.

Funding

To some degree, the re-banding and digital upgrade could be considered in similar fashion to an unfunded mandate. Since the radio system is not necessary for routine or emergency operation in Public Works the funding source should be from the agency requiring/requesting the change. Ultimately, the Board must decide the funding source.

Direction

Unless directed otherwise, Public Works will relinquish all radios (mobile and portable) and use the more cost effective cellular telephone system for operational and emergency communication.

c: Valerie Eveland, BCES
David Sparks, County Administrator
Larry Moser, Financial Administrator
Don McClure, Equipment Maintenance Manager

Ross B. Dunfee, P.E.
Director / County Engineer
Steven W. Becken
Asst. Director / Asst. Co. Engineer

Benton County

Department of Public Works

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

Date: October 26, 2007

To: Board of County Commissioners

From: Ross Dunfee *RBD*

Re: 800 MHz radios

This is in response to Commissioner Bowman's request concerning the use of existing 800 MHz analog radios and the potential to convert to a digital system.

Public Works currently has 95 800 MHz analog radios as follows:

- LTS 2000 Portables
 - 7 – Prosser Road Crew
 - 1 – Prosser Shop
 - 7 – Kennewick Road Crew
 - 1 – Kennewick shop
 - 3 – Survey Crew
- LCS 2000 Base Unit
 - 3 – Prosser Shop
 - 3 – Kennewick Shop
 - 3 – Courthouse
- LSC 2000 Mobile
 - 37 – Prosser Shop Equipment
 - 30 – Kennewick Shop Equipment

Because of current cellular telephone technology it is unnecessary for Public Works to continue using both 800 MHz radios and cellular telephones for communication associated with operation and maintenance of the road system. With the increased use of cellular telephones, the use of radios has declined significantly from years past making continued use of the radio system unnecessary. The only future need for Public Works to continue access to the 800 MHz radio system may be for communication with emergency responders during non-routine events. Since Public Works is in a support role to emergency responders, we are currently investigating completely dropping the use of radios by the end of 2008.

Most of the Public Works staff currently use cellular telephones for communication concerning routine activities instead of the radio system. The survey and road crews use both cellular telephones and 800 MHz radios. Public Works pays approximately \$1,000/month or \$45 per phone (maximum/depending on plan requested) for 22 cellular phones with monthly minute

usage ranging from 200 to 400 minutes per month per phone. At \$45 per month and the lowest usage rate, the cellular phone cost is \$.23 per minute per month.

Public Works also pays BCES \$12 per month per 800 MHz radio, with approximately 310 minutes per month in total usage for the entire Public Works Staff which, totals \$1,140 per month in usage fees or \$13,680 annually. \$1,140 per month divided by 310 minutes of usage equals \$3.68 per minute per month.

Based upon a proposal from BCES through Day Wireless and Motorola, our existing Motorola analog radios could be replaced with a newer style analog or digital radio for \$329 per hand held portable (17 X \$329 = \$5,593) plus \$618 per mobile/base unit (78 X \$618 = \$48,204) for a total cost for this update of \$53,797, plus sales tax. With consideration given by Public Works to the actual minutes of usage of the current 800 MHz system vs. the cost of cell phone usage and the minutes offered in each plan, it is recommended that Public Works delete its entire inventory of base and mobile radios. It is expected that the number of cellular telephones might increase from 22 currently being used in Public Works to as many as 35 depending on how many road personnel wish to continue using personal cellular phones in the field. Even with the increased cellular usage at a maximum number, Public Works will save 50% of the fees currently being paid monthly for the 800 MHz radio system by using Cellular phones.

With this reduction in cost, Public Works could, as an option, retain the portable radios for \$5,593 (17 X \$329). Regardless of whether Public Works keeps the portable radios, it is my recommendation to eliminate the mobile/base radio system. Whatever radios Public Works relinquishes, it is the wish of BCES to retain the radios because of the favorable conversion rate (cost to convert analog to digital) compared to the cost of converting existing radios of other agencies.

In summary, it is my belief that Public Works, as a support group to emergency service responders, can provide our support services without the use of 800 MHz radios. Based upon operational and economic factors, it is no longer necessary for Public Works to continue using the radio system.

c: Valerie Eveland, BCES
David Sparks, County Administrator
Larry Moser, Financial Administrator
Don McClure, Equipment Maintenance Manager

In 1995, the Chemical Stockpile Emergency Preparedness Program (CSEPP) provided money for the community to build an 800 MHz analog system. 800 MHz was chosen for its reliability and versatility. The original intent was that the CSEPP Program would end in 2008 and that the system would then be turned over to the community. The life expectancy of the analog system was reached in 2008 and continued operability of the system in 2009 became questionable. Delays in eliminating the chemicals stockpiled in Umatilla presented an opportunity for the local community to ask for funding to upgrade the 800 MHz analog system to a digital system. The primary reason for the replacement of the analog system was that the manufacturers no longer produce or sell the required analog equipment. The existing system is near the end of its life expectancy.

The CSEPP Program realizes the existing analog system is not sustainable and understands a public safety communications system is essential. CSEPP is providing a \$7 million grant for the digital upgrade of the new radio system. The necessity to upgrade at this time while the analog system is still functioning causes some people to question the need for the upgrade. It is important to remember that if the radio system fails there is no efficient or reliable back-up system available. It takes approximately 18 to 24 months to build a new radio system. That time frame is unacceptable if you are left without a functioning system.

Benton County Emergency Services
Public Safety Communications System Consensus Statement
September 8, 2006

BACKGROUND

Benton County Emergency Services currently operates a combination of communication systems for Benton County first responders, public services, and peripheral users throughout the County. These systems include a Motorola 800MHz SmartNet trunked simulcast system with associated CentraCom Gold Elite radio dispatch consoles and network management tools. There are also conventional 800MHz repeaters and talk-around frequencies in use for the subscriber units. In addition, BCES provides and operates various VHF radio systems including three (3) channels of conventional wideband simulcast, fire alerting and notification, various standalone repeaters, and receiver voting equipment that are interfaced to the Motorola CentraCom Gold Elite radio dispatch consoles.

There are driving factors that are dictating the need for a communication systems review. These factors include the existing life cycle of the 800MHz analog system and its heavy funding subsidy by the Chemical Stockpile Emergency Preparedness Program (CSEPP). BCES has been advised by CSEPP representatives of the sunset and elimination of CSEPP funding sources within the next few years. It is the desire of CSEPP to support a communication systems upgrade for BCES before the program is eliminated. This funding condition and support is critical to the upgrade of a new communications system, as it is very unlikely BCES or their user agencies can support a system upgrade with limited local funding sources.

In addition, the Federal Communications Commission (FCC) has ruled to require radio station licensees below 512MHz to begin operating in a "narrowband" mode by January 1, 2013. This ruling presents a situation to BCES and their VHF users regarding equipment upgrades and migration costs. It is the desire of BCES and the VHF users to make an informed decision regarding the costs, benefits, risks, functionality, and overall operations related to the upgrade and migration to narrowband operation.

Further, several fire agencies within the County have expressed a desire to operate primarily with a single radio system. This desire is driven partially from a cost standpoint as fire apparatus are presently outfitted with both VHF and 800MHz mobile and portable radios. Fire agencies have expressed that if a financial decision is made on their part to operate on a single radio system, they would prefer to operate on VHF in order to maintain simplified VHF interoperability and mutual aid with the other fire agencies in eastern Washington.

ANALYSIS

We users of the Benton County Public Safety Communications System include law, fire, EMS, hospital, utilities, and public works disciplines. Representatives from these disciplines analyzed strategies for upgrading the communications system considering the above-mentioned situation. Several alternatives and opportunities were considered for upgrade and migration. These included: 800MHz trunked digital, 700MHz trunked digital, VHF conventional analog, VHF conventional digital, and VHF trunking systems.

All options considered used the same evaluation criteria. The evaluation criteria for each option included:

- Lifecycle
- Costs
- Coverage
- Sustainability
- Interoperability
- Benefits / Feature Sets
- Risks
- Reliability
- Vulnerability
- Technical and Operational Complexities
- Dispatch Impacts
- Call Volume and Call Capacity
- Frequency and Spectrum Use
- Compatibility with Existing Infrastructure and Console Systems

We users of the Benton County Public Safety Communications System were presented with federal regulatory guidelines, industry standards, state legislation, historical evidence, and other information related to evaluating communication system upgrade and migration options. This analysis was made with the best information available at the time; however, we do recognize that no engineering study or specific dollar costs were applied to this analysis. During the analysis process, it was clearly identified and recognized that different disciplines had different communication needs, operations, priorities, and functions, therefore, different conclusions have been reached depending on one's particular discipline.

CONCLUSIONS

After thoroughly examining the evaluation criteria, trade-offs, and limitations for each of the options considered, we users of the Benton County Public Safety Communications System conclude the following:

Law Discipline

If required into a change because of manufacturer obsolescence, our preference based upon discussed criteria, is to transition into 800MHz digital only after a cost and coverage analysis has been conducted and the information has been further reviewed. With this in mind, Law users would wish to migrate to an 800MHz trunked digital system for the following reasons:

- Continued use of trunking efficiencies with enough talkgroups for day-to-day operations, tactical operations, administrative operations, and emergency operations
- Continued county-wide coverage on all talkgroups
- Continued protection from radio spectrum interference
- Improved audio quality of digital transmissions
- Use of encryption capabilities with digital transmissions

- Continued trunking feature sets such as authenticated users, call priorities, emergency functions, channel recovery, and inherent system design benefits, etc.
- Interoperability with county fire users through console patching

Fire and EMS Discipline

Fire agencies prefer to transition into VHF narrowband that will be required under statute, however a cost, coverage, and maintenance analysis must be performed before a final decision can be made. With this in mind, Fire users wish to remain with a VHF conventional analog system for the following reasons:

- Increased interoperability with out-of-county fire mutual aid partners including State and Federal agencies
- Continued use of tone and voice fire alerting system
- Reduced radio equipment costs by using only one radio platform
- Interoperability with county law users through console patching

Public Service Discipline

The public service discipline includes utilities and public works, among others. Public services wish to migrate to an 800MHz trunked digital system for the following reasons:

- Continued use of trunking efficiencies with enough talkgroups for day-to-day operations, administrative operations, and emergency operations
- Continued county-wide coverage on all talkgroups
- Continued protection from radio spectrum interference
- Continued interoperability with law users through direct communications

Dispatch Service

Dispatch services at SECOMM and Prosser wish to implement a simplified process of communications. This includes limiting the number of patches, patch processes, and the training associated performing the various patch operations. Dispatch advocates that only a select number of channels be used for patching and that a simple repetitive process for coordinating interoperability through the radio dispatch consoles be performed.

FINANCIAL CONSIDERATIONS

These conclusions were based on the situation and information at hand at the time. In addition, these conclusions are highly contingent upon CSEPP funding. This is to say, that if funding does not become available through CSEPP, no upgrade or improvement may be performed to the Benton County Public Safety Communication System. We users feel the systems in place now perform the functions necessary for today's requirements, however, due to lifecycle replacements, manufacturer planned obsolescence, CSEPP funding sunsets, and FCC narrowband mandates, we have strategically analyzed communications systems upgrade options.

Benton County Emergency Services Radio System Upgrade Review

January 9, 2008



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1 Introduction

Benton County Emergency Services operates a Motorola SmartNet 3.0 800 MHz trunked radio system that serves the communications needs of a wide variety of county and municipal agencies within Benton County. This system has the dual function of meeting the day-to-day communications needs of these agencies while also providing a common communications platform for critical communications in the Chemical Stockpile Emergency Preparedness Program (CSEPP). While still a well functioning and supported system infrastructure, there are known lifecycle thresholds that require upgrade and replacement planning to be thoughtfully analyzed and assessed to allow prudent upgrade decisions in the near term. Further, the opportunity to synchronize this upgrade with the availability of CSEPP financial support requires that this process be concluded quickly and with decisive results.

iXP Corporation was hired to review the research and planning that has been accomplished to date and provide an independent assessment of the adequacy and appropriateness of the planned upgrade. This includes reviewing the consequences of not upgrading the system and an overview and assessment of alternative technologies and/or vendors that might be considered to meet the communications needs of the region instead of the 800 MHz trunked system environment.

iXP's standard methodology integrates analysis of four key aspects of the emergency communications domain; governance, operations, technology and facilities. These pillars form the foundation for virtually every emergency communications organization or system and achieving high levels of functionality and reliability in these component areas assures a sound and dependable 24/7 environment that meets the needs of the public safety agencies being served. While this engagement was specifically targeted at the specifics of the 800 MHz trunked radio system and alternatives, we have included a few governance, operations or facility observations when they have a high degree of relevance to a specific technology issue.

To conduct this engagement in the shortest possible period of time, a number of existing documents were provided to iXP in advance of the first on-site interviews and further documentation was provided during meetings with BCES staff or other individuals. The following is a listing of the major documents reviewed during this engagement:

- Benton County Emergency Services 2008 CSEPP Digital 800 MHz System Upgrade Proposal
- FEMA – Benton County Washington 800 MHz Microwave Analysis report
- Minutes and PowerPoint slide decks from the BCES Radio Technology Workshop Series
- Motorola Budgetary Estimate for P25 Digital Migration dated 04/01/07
- Motorola P25 Digital Migration Proposal dated 11/15/07

In addition to these documents, a number of additional charts, graphs, coverage maps, product literature, and memoranda were reviewed to build as broad as possible an understanding of the communications needs of the participating agencies, the current and future functionality of the



present analog system, the proposed upgrade strategies for this system and the alternatives that may exist if these upgrades were to be deferred. Further, a number of interviews were conducted with BCES staff, representatives of the user agencies and vendors and consultants who support BCES and/or the trunked radio system.

Since a significant amount of detail on the current system configuration and the upgrade plans is contained in the source documents provided, this report will not re-present those details in depth to help keep this report compact and on point.

2 Overview of Current System

2.1 System History

In 1995 a significant majority of Benton County public safety agencies and several general government type agencies moved from a number of independent VHF radio systems and dispatch centers to a shared analog 800 MHz trunked radio system. Much of the impetus to develop this radio system as well as a great deal of funding came from the Federal Government's Chemical Stockpile Emergency Preparedness Program (CSEPP). This program was responsible for establishing emergency plans and procedures in communities near chemical weapon decommissioning sites like the one at the Umatilla Chemical Depot just south of Benton County. Working through the Federal Emergency Management Agency (FEMA) as the lead Federal agency, state and local governments were engaged in operational and system deployments to support their emergency response activities through the end of the weapons decommissioning process. Originally this was slated to be completed by 2007 but has been extended to 2012/2013 in current planning.

The original radio system plan called for a five channel simulcast trunking system with six (6) transmitter sites. However funding constraints limited the initial system implementation to only four (4) sites which reduced the overall coverage performance of the system in certain portions of the county. In 2000, the system was upgraded to twelve channels and a fifth transmitter site is under construction on Badger Mountain. This site should be operational early spring of 2008 and will expand the coverage footprint of the simulcast system into some of the existing problem coverage areas. The system also supports two channels of 800 MHz encrypted digital communications at each transmitter site for communications that require this level of security.

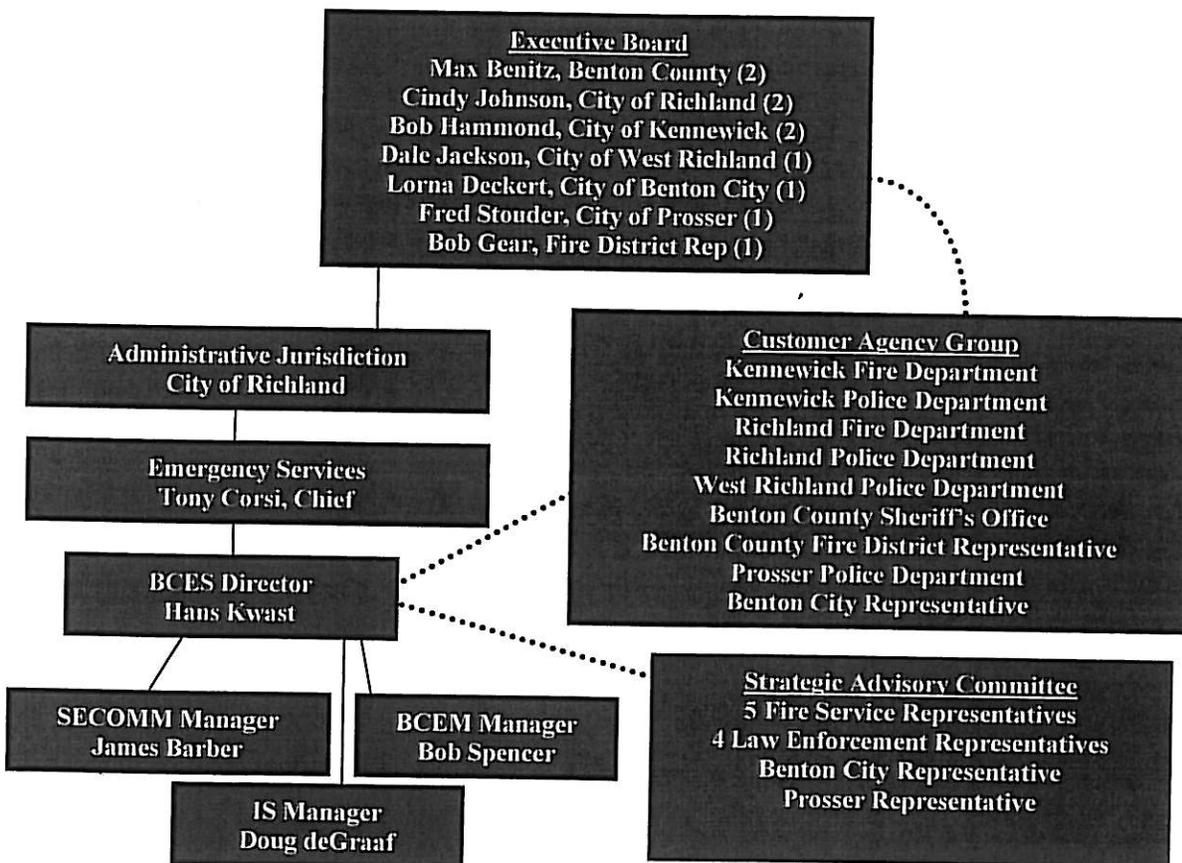
The primary users of the system have been law enforcement, fire/EMS and Benton Public Utilities. There are presently approximately 1,400 subscriber radios operating on the system. Just over 300 of these radios are considered "CSEPP Radios" since they are radios that were purchased with CSEPP funds and are operated by the various agencies as a part of their coordination and response roles in the CSEPP program. The remaining 1,100 radios are individually owned by the agencies and sometimes referred to as "Local Radios". Even though identified as CSEPP radios, all the radios are used in the normal operations of the agencies so the overall total of 1,400 subscriber radios generally represents the constellation of normal subscriber load on the system.



The fire service agencies dispatched through SECOMM made a decision in 2007 to discontinue using the 800 MHz trunked radio system and returned to using the VHF radio system that they utilized until their 2002 migration to the trunked system. This system had continued in use as the firefighter notification system for paging and station alerting. While these agencies will continue to have their "CSEPP Radios" for the duration of their CSEPP responsibilities, all normal fire dispatch, response and fireground communications have now been reverted to VHF operations. This move reduces the overall subscriber radio count on the 800MHz trunked system by approximately 325 units.

2.2 System Governance

The 800 MHz trunked radio system is governed under the processes of Benton County Emergency Services (BCES) which is a multi-jurisdictional body formed through Interlocal agreement. BCES is comprised of two divisions; the Benton County Emergency Management (BCEM) and Southeast Communications Center (SECOMM). The board is comprised of seven (7) members with the representatives from Benton County, Richland and Kennewick having two votes each and the remaining representatives having a single vote. The following diagram was provided to overview the governance body.



There is an additional 'governance' relationship for the system in that the microwave backbone that connects the radio transmitter sites and the communications center is owned and operated by Washington State Emergency Management (WSEM). While operating a trunked radio system on a microwave backbone supported by a separate public safety agency is not unique, the point of demarcation between the microwave system and the trunked radio system is unique in iXP's experience for systems of this nature and may present some additional challenges as future system upgrade or replacement plans emerge. This will be discussed further later in this report.

2.3 System Operations

BCES employs a single individual to serve as the system administrator for the trunked radio system and contracts technical support for the system to Motorola and their local service provider Day Wireless. The microwave system is administered by WSEM and also maintained under a contract to Day Wireless.

iXP conducted interviews with separate groups of law enforcement and fire service representatives from agencies that utilize the system and received comparable feedback from both groups with regard to the performance of the system. The law enforcement community in particular noted the importance of countywide coverage and the diversity of Talkgroups as a significant benefit of the simulcast trunked system architecture. They were pleased with the dependability of the system and subscriber radios and the ability to communicate with any other users of the system with a common technology. They noted that even though some of the Talkgroups and channels in the current configuration were misunderstood and perhaps underutilized, restricting their communications flexibility to a limited number of conventional channels would no longer meet their operational needs.

The fire service representatives also acknowledged the benefits of countywide coverage and the overall quality performance of the radio system infrastructure. Interoperability with other trunked system users was primarily limited to interoperability with other fire service jurisdictions and little need or interest for interoperability with law enforcement was identified. Instead, interoperability with out-of-jurisdiction fire service radios during large scale incidents was noted as the biggest need, and since the vast majority of these radios are VHF this influenced the recent decision to revert to VHF operations instead of remaining on the trunked system. This decision was also heavily influenced by the perceived cost of remaining on the trunked system as it migrated from analog to digital technology.

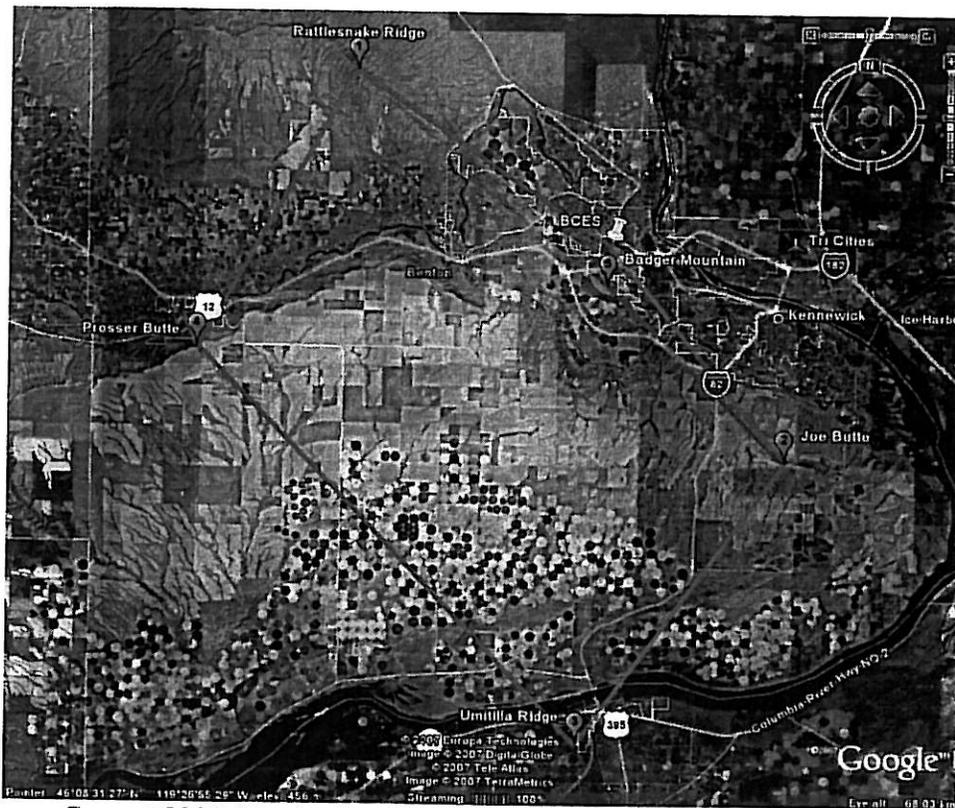
2.4 System Architecture

As discussed earlier, a considerable amount of detail on the current configuration of the radio system is contained in the documents reviewed for this report. The following general overview of the system architecture is provided simply to establish a reference point for further discussions about the planned upgrade of the system and considerations impacting that upgrade or alternative strategies.



The current radio system is a Motorola Smart-Net II Version 3.0 800 MHz analog simulcast system with twelve (12) channels. There are currently four (4) repeater sites located on Prosser Butte, Rattlesnake Mountain, Jump Off Joe Butte, and Umatilla Ridge. All four (4) sites and the BCES Communication center are interconnected with a microwave system owned and operated by the WSEM. Joe Butte presently is the prime site for the simulcast system.

A 5th transmitter site is currently being constructed at Badger Mountain and this will be interconnected to the microwave backbone in a loop configuration with connection points at BCES and Joe Butte. There is also a microwave spur from the Prosser Butte site to the dispatch center at the Prosser Police Department.



Current 800 MHz Analog Simulcast Trunked System Configuration

In addition to the analog trunked system, BCES operates two (2) channels of Motorola's ASTRO digital radio protocol in the encrypted mode for secure communications by users equipped with encryption capable digital radios. These repeaters were implemented primarily for secure communications related to CSEPP medical transport uses and control station radios were installed in area hospitals for this function. Several law enforcement uses have also begun to emerge for these encrypted channels.

One channel has transmitters at the Rattlesnake Ridge and Umatilla Ridge sites and the second channel has transmitters at the Prosser Butte and Joe Butte sites. These are all individual repeaters and not operated in a simulcast configuration. Access codes in the programming of the

encryption-capable radios allow users to individually select which transmitter they will access depending on the area where coverage is needed. The physical separation of the sites and the very low use of encrypted communications limits the risk of simultaneous keying of transmitters on the same frequency.

2.5 System Facilities

With the exception of the BCES location and the equipment building being constructed at Badger Mountain, equipment for the trunked radio system is located in radio equipment buildings owned by other governmental entities. iXP visited the Joe Butte site to get a general perspective on the conditions of the sites and the equipment installation practices. Further, since this site is currently the prime site for the simulcast system it presents the most significant space and logistical challenges during system upgrade activities. BCES staff described the other transmitter sites as similarly configured and constrained as the Joe Butte site.

In general terms the Joe Butte and BCES sites were observed to be in good condition with good overall site and equipment installation practices being followed. The Joe Butte site is extremely full, and essentially no space is available for new or replacement system deployments (sometimes referred to as delta space). This is also true on the tower and waveguide access and support systems which appear to be fully loaded with the current mix of systems deployed at the site. Space constraints at the transmitter sites will be discussed further in the review of the planned upgrade.

iXP also visited the Badger Mountain site which is still under construction so no equipment building or equipment was yet in place. However, given the dimensions of the new building and the low density of antennas on the existing tower that will be used, BCES should have no difficulty both deploying the current system configuration at this site and having delta space for future system upgrade plans.

2.6 System Life Cycle

Radio system infrastructures have become increasingly complex as expanded levels of system functionality have been added to system designs. Simulcast trunked radio systems represent the most complex mix of components and technologies of all radio system configurations. These systems are far more than a collection of individual components, they are an integrated system that must be maintained with contemporary and compatible technologies to retain operational reliability. Unfortunately, many of the components and sub-systems in these complex networks are driven by the technology lifecycles of the information technology (IT) industry, and parts/component availability often becomes a life-limiting factor long before component failure.

Motorola has a well refined lifecycle planning process that allows system owners to have a high degree of awareness of what to expect from the standpoint of when their systems will require refreshment or replacement. While every effort is made to make these lifecycles as long as possible, the rapidly changing semiconductor and IT marketplace makes achievement of the 15 and 20 year lifecycles of legacy systems virtually impossible to attain. One way Motorola helps



stretch system lifecycles is by making bulk purchases of parts and components when their suppliers are phasing them out so that sufficient inventories can be maintained to meet planned lifecycle dates that have been provided for customer guidance.

The current analog trunked radio system infrastructure is no longer a currently manufactured or shipped system, and has not been sold in this configuration for several years. Many of the key components will be able to be maintained for many years to come while others will experience challenges much sooner. While the system as a whole is a mix of a vast number of components, the ones most relevant to system upgrade planning are discussed below. As of the date of this report, Motorola advises of the following lifecycle expectations for the current system equipment:

- Quantar transmitters are still a current production item. As such, new units and component parts for repair will be available for many years to come. Motorola typically will announce an end-of-life with at least 7 years of parts on hand, so even if the end-of-life were to be announced in 2008, the Quantar transmitters would likely be maintainable until at least 2014.
- Gold Elite Console systems have a more complex mix of IT-like components and therefore have shorter lifecycle expectations. Under currently announced Motorola lifecycle plans, Gold Elite positions will be available to add to analog SmartNet systems until 2009 and units in place by then will likely be supportable through 2016.
- Analog subscriber radios are also still in current production and would presumably be available from Motorola or other manufacturers for many years to come, or at least until after the serviceable life of the infrastructure.
- Trunking controllers are very unique and purpose-built technologies and in a simulcast architecture heavily dependent on parts availability and compatibility to remain functional. While discontinued several years ago, Motorola's "6809" controllers (which are used in the current Benton County system) were in production for over 20 years and it is actually somewhat unexpected that they have been able to sustain them as long as they have. The current parts availability will allow Motorola to support those in use by customers until the end of 2008. The replacement MTC3600 controllers have been produced and shipped for several years and now have a published end-of-life date of Q2-2008. Motorola advises that they plan to be able to support these for 7 years from this date but parts availability may reduce this.
- A number of other components of the system such as Digitac comparators and the simulcast control subsystems are also susceptible to component part cancellations and replacement part compatibility challenges. While not on specific lifecycle models like the components above, experience on these systems indicates that they typically require upgrade or replacement on comparable timeframes.

As can be seen, the lifecycle of the trunking controllers is the primary factor driving the need to upgrade the current system to current-generation technology, with the Gold Elite Console system being close behind that. Even if a controller-only upgrade was done to move the system to MTC3600 controllers, Motorola would be unable to commit to an end-of-support date that would coincide with the expected lifecycle of the Quantar transmitters or the Gold Elite Console system. BCES has obtained some used 6809 controllers that could be cannibalized to meet



repair needs for a few years to come, but this is not a strategy that should be counted on for long-term sustainability of the system. Since Motorola will be shutting down their ability to bench test and repair the boards in these controllers, it will become increasingly difficult to be confident that a spare board inserted to replace a failed board will perform any more reliably than the component it replaced.

Given that the current system was originally installed in 1995 and using the lifecycle of the 6809 controllers as the life-limiting element, the overall system lifecycle of the current system would be 13 years (1995 to 2008). The practical reality of the planned upgrade process (discussed further below) will extend the life of the analog system through 2009 or longer as users migrate their subscriber radios, bringing the total system life to nearly 15 years. This is within the range of normal expectations for systems of this size and complexity, regardless of vendor. Achieving anything more than 15 years of overall system lifecycle is about the upper limit of any of the complex communications architectures in the marketplace. While some individual components can indeed be supported for longer periods of time, it is the overall functionality, compatibility and reliability of the system as a whole that has to be given the highest priority.

3 Review of the Planned P25 Digital System Upgrade

iXP has reviewed the proposed upgrade plans contained in BCES and Motorola documentation and has also conducted multiple personal interviews and conversations with Motorola personnel, BCES staff, BCES client agencies and BCES consultants. Further, we have assembled past experience with systems of this type in other jurisdictions and evaluated all of this information against system upgrade and deployment plans being conducted with other clients. Therefore, the views expressed in this review reflect the best understanding of the planned upgrade approach at the present time, balanced against all of these influencing factors.

iXP was asked to address the following issues in this review:

- if the planned upgrade is reasonable and appropriate for the intended operational use and coverage needs of the user community, including the State of Washington in their role for coordination of Chemical Stockpile Emergency Preparedness Program (CSEPP) emergencies,
- if the planned upgrade approach and methodology are appropriate for the conditions present in BCES's operational and physical setting,
- if the planned upgrade is reasonably priced,
- if the currently planned migration strategy is reasonable and appropriate given the operational needs of the user community and the technological constraints of the upgrade process, and
- if the planned upgrade meets the needs of the user community over a reasonably acceptable system lifecycle.



3.1 Current Understanding of the Planned Upgrade Approach

Before these issues can be addressed individually, it is necessary to outline the current understanding of the proposed upgrade approach for the Benton County system. The following description represents iXP's best understanding of the planned upgrade approach:

- The new system infrastructure will be installed at Motorola's ASTRO 25 7.4 version level. This system conforms to the currently adopted standards for Phase I Project 25 systems.
- The new system will be configured as a single Zone, with three "sites".
 - The primary site will be a 12-channel, 5-site simulcast cell that utilizes all 5 of the current transmitter sites (Joe Butte, Rattlesnake Ridge, Prosser Butte, Umatilla Ridge and Badger Mountain).
 - The Zone Controller and Simulcast Prime Site will be located at BCES.
 - There will also be two conventional trunking sites implemented at Golgotha Butte and Sillusi Butte with 3 channels each to provide coverage enhancement for areas underserved by the 5-site simulcast cell.
- The system will be built and tested at Motorola's CCSI facility and installed at Benton County sites in a 12-channel configuration in the simulcast cell and in the 3-channel configuration for the filler sites. Motorola has built into their proposal all the RF and radio infrastructure components to provide a complete and functioning radio system with only minor exceptions that are discussed later in this report.
- Initial turn-up of the system will utilize less than the full 12 channels on the simulcast system so that some channels can remain operational on the analog SmartNet system until users have completed their migration to P25 radios.
- The two systems will remain in parallel operation for an undetermined period of time until users have completed their migration to digital subscriber radios. The current ASTRO Digital repeaters will remain in service for their initial intended uses, but the broader coverage of the encryption-capable ASTRO 25 system will allow encrypted communications to be expanded to other uses as needed.
- Once user radio migrations are complete, the full 12 channel capacity of the ASTRO 25 system will be turned up and the analog system will be decommissioned.
- The current Gold Elite Console system will remain in use and be provisioned with appropriate revisions to allow it to access both the analog SmartNet and the digital ASTRO 25 system.
- Benton County will be responsible for providing all other aspects of the project including overall project management and quality assurance, site space, tower space, site power systems, appropriate microwave links between all sites and BCES and any licensing of additional spectrum to meet the system design needs.

3.2 Reasonableness of the Planned Upgrade for the Intended Uses

Based on the lifecycle issues discussed earlier in this report, it is reasonable for Benton County to be planning and executing a replacement for the current system infrastructure within the next two to four years. The precise window for actually conducting this effort will be driven more by the availability of fiscal and personnel resources to complete the upgrade than the constraints of supportability of the system in its current configuration.



Based on the operational needs identified in the meetings with the user community and their history of having the capacity and flexibility of a simulcast trunked radio system at their disposal, it also appears reasonable to plan the upgrade of the current system with a trunked radio system with comparable or better coverage and features. This is particularly true in the law enforcement community where increasing operational demands will continue to drive the need to have added communications capabilities and interoperability which can be most easily met with a regional trunked system architecture.

Further, even though the fire service agencies have reached a decision to revert normal operations to legacy VHF technologies, it is also reasonable to suspect that at some time in the future one or more of them may wish to re-acquire trunked system radios to garner increased coverage or functionality for some or all aspects of their service delivery model. Provisioning these services on an already operational trunked radio system is far easier to execute than trying to implement a totally separate infrastructure at the time the needs emerge.

It also appears reasonable to find that the upgraded system will meet the needs of the CSEPP responsibilities of the local agencies. As described to iXP these include; high reliability, the ability to deal with high radio traffic demands during emergency conditions, coverage over a wide area for direct user-to-user communications, multiple paths of communication for different operational functions that are inherently interoperable, the ability to engage in secure communications and a system infrastructure that is fully supported and reliable through the end of operations at the facility in 2012/2013.

Finally, it seems reasonable to expect that other local government and quasi-governmental agencies in the region may desire to acquire communications services from BCES on a system that is on the front edge of a new lifecycle curve rather than on the waning years of the current technology. Therefore, given the information provided iXP and balanced against our industry experience it does appear reasonable to upgrade the current trunked system to a current-generation trunked radio system.

iXP can only express limited observations on the appropriateness of the proposed coverage for the upgraded system since a technical review of the proposed system design was not in the scope of work we were assigned. There are a number of considerations in predicting radio system coverage and performance for digital radio systems that go far beyond just predicting RF signal levels. Without assessing these factors with the Motorola design engineers to understand how they were integrated into the coverage examples they provided, iXP cannot offer an opinion on whether the coverage as shown is appropriate for the needs of Benton County.

Based on anecdotal reports on the current system configuration and performance by the user community and system management personnel, and considering that the upgraded system will be a 5-site simulcast configuration instead of just four and will also have two filler sites in currently underserved areas, it would appear on the surface that coverage will be at least as good as the current system and perhaps better. However, this may or may not mean that system audio performance will be better than the current system in all operational circumstances.



For example, the performance of portable radios inside of buildings and structures may be significantly different than the predictions for on-street coverage. This can be particularly true in digital radio systems that experience different signal degradation performance characteristics than analog radio systems. It is not uncommon to base system design decisions on a variety of coverage requirements, particularly in jurisdictions like Benton County where the coverage needs may vary from urban in-building requirements in the municipalities to portable-on-street or mobile coverage requirements in the large expanses of open spaces with few physical barriers between the infrastructure and the end users. It will be important for Benton County to conduct in-depth discussions with Motorola and/or other design engineering consultants to establish the appropriate coverage design goals for the system and assess if the proposed mix of sites meets these goals.

Based on the documentation provided, it would appear that the selection of sites and system architecture has been driven by BCES rather than by Motorola. This means that BCES will own whatever the resulting system performance turns out to be. While reusing the current 5-site simulcast configuration certainly seems like a reasonable strategy for the new digital system, the way the added sites at Golgotha Butte and Sillusi Butte get integrated into the system needs to be very carefully planned and considered.

iXP has two concerns in this regard. First, even though these sites are intended to fill troublesome coverage areas, they appear to have a significant amount of coverage overlap with sites in the simulcast system. This can create a situation where radios operating in these overlap areas may be affiliated with either of these system resources and periodically move between them during their operation. When combined with the limited number of channels being planned for these sites, it seems likely that radio users in these overlap areas may experience unusual system behaviors that could be disruptive to emergency operations including calls being blocked to some users due to limited capacity on the filler site.

iXP would recommend that further in-depth planning be conducted with Motorola and/or independent consulting support to determine the best overall configuration of the seven sites being considered for this system. The more BCES can shift the burden of system design to Motorola the more they can be held accountable for system performance instead of owning that responsibility within BCES.

Our review of the current and future relationship with WSEM for microwave connectivity between the sites also raises some cautions. While it is not uncommon for a separate entity to provide microwave transport between sites, it is a bit uncommon for the transport to also include channel bank management and T1 grooming. It would be advisable to establish a different relationship for the transport for the new system so that there was a cleaner demarcation between the carrier-like responsibilities of WSEM for the microwave system itself, and the trunking system responsibilities of BCES and Motorola.



3.3 *Appropriateness of the Upgrade Approach*

System upgrades and replacements in the public safety communications setting are some of the most complex and risky technology projects ever undertaken by an agency. Like any system implementation it is critical that the entire project be undertaken in a manner that assures outcomes that match design intent, and system performance and reliability that meet user needs. This is complicated by the concurrent need to sustain existing systems in full operational capability and transitions users across the infrastructures in an orderly manner so that continuous, reliable communications services are sustained. One of the most common methods for meeting these challenges is to operate both legacy and new systems in parallel and interconnected so that communications by users can be conducted across the separate systems. As described to iXP this is the approach being planned for the Benton County system upgrade, thus it seems totally appropriate under the circumstances.

There is often an economic incentive to try and re-use equipment from legacy systems in new system deployments. While this approach can sometimes allow system upgrades to proceed successfully there are also numerous situations that can arise where re-use or co-use of legacy system elements can degrade performance of one system or the other, or make the resulting integration of components more susceptible to unintended lifecycle or compatibility problems.

As described to iXP, the intended upgrade approach will have limited reuse of legacy components and the components being reused (such as the Gold Elite Console system and the TRAK GPS units) have been carefully evaluated to assure that their re-use will not impair the overall functionality or lifecycle of the new radio system. In fact, the intended re-use/re-configuration of the Gold Elite Console system provides the mechanism to allow the legacy and new systems to operate in parallel for the user migration period of time. On the whole, the levels of intended re-use/co-use of existing system elements seems appropriate for the circumstances faced by Benton County in this upgrade.

Beyond the technological challenges, some of the most significant physical challenges in a radio system upgrade process are the logistics of staging and deploying the new system equipment to the radio sites and getting the new system on the air. Since all of this work needs to be accomplished while the legacy system continues in full operational mode, the space constraints at the transmitter sites and towers can present significant challenges. Unless the sites have adequate open space to be used for periodic sequential replacement of systems it is often necessary to either expand the physical facility or relocate legacy equipment to temporary space so that the new system can be installed and made operational.

This is an area where iXP believes Benton County will face its most significant challenge. Based on the observation of the Joe Butte site and descriptions of the other sites provided by BCES staff and BCES vendors/consultants, the space conditions at the sites will make parallel operation of the legacy and new systems extremely difficult. In some cases the biggest constraint may be with space in the equipment building, in other cases the biggest constraint will be tower space and in some cases both constraints may exist.



Regardless of the circumstances, the currently outlined division of responsibilities between Motorola and BCES places many of these responsibilities squarely on the shoulders of BCES. This will require a high degree of focused attention by the project management team BCES assembles for this upgrade effort. It is extremely important to begin funding and committing these resources to tackling these issues. As part of making the threshold decision to move forward with the upgrade, authorization should also be given to quickly engage an appropriately balanced project management team (project manager, engineers, consultants, etc.) so that the detailed design phase of system planning can be sure to embrace all of these issues in depth so that a full understanding of the total body of work for the upgrade is clearly documented and responsibilities assigned to the appropriate parties.

3.4 Reasonableness of Cost

iXP has reviewed the proposed pricing for the system upgrade and the mix of digital subscriber radios being offered by Motorola, and compared these costs to costs being experienced by other iXP clients for Motorola or other brand radio system infrastructures and subscribers. While many in the public safety marketplace feel that all system and radio prices in today's market are unreasonable, the true assessment of reasonableness needs to be against comparable system architectures, features and performance rather than against 10, 20 or more years of historical experience with simpler and less capable infrastructures. For systems of this design and complexity, the pricing being proposed by Motorola appears to be consistent with pricing observed in other client and market areas.

The cost of the individual subscriber radios is often cited as one of the biggest barriers to user acceptance of new digital radio system implementations. To a large extent, this resistance is often heavily influenced by anecdotal stories of users fully migrating to high-priced top-tier radios that are as much as five times more expensive than their analog counterparts. The reality is actually quite different, with a wide range of digital radios being offered by all of the equipment manufacturers to meet a variety of intended user needs, operating environments and cost constraints.

Indeed, Motorola is offering a mix of radios with varying levels of functionality at multiple pricing levels and the specific configurations to be used by specific users and functions should be carefully analyzed and planned. In iXP's experience it is not necessary for all users to utilize top-tier radios, nor is it necessary for all radios to have all features installed or enabled on them. By carefully managing the configurations of the fleet of radios utilized by each customer, Benton County will be able to mitigate the impact that subscriber radio costs have on the overall upgrade project cost. This will require careful attention to expectation management in the user community and significant investment in communications and planning so that complete and easy to understand information is disseminated to the users so that unreasonable expectations don't proliferate.

3.5 Reasonableness of Migration Strategy

As described to iXP (and discussed above) the proposed migration strategy involves the operation of legacy and new systems in parallel for a period of time to allow a migration of users



from analog to digital radios. The modifications to the Gold Elite Console system will allow BCES personnel to communicate with users over both infrastructures in a concurrent manner so that they don't have operationally-linked units operating on separate channels. Once the user radio migration is complete, the legacy analog system will be decommissioned and the digital system will operate at its full 12-channel capacity. On balance, this appears to be a reasonable migration strategy and one often used by public safety agencies migrating between technologies.

There are a number of factors that can impact the success of this migration strategy that will require additional planning and focus as the project moves forward. Perhaps the most challenging will be capacity constraints on the parallel systems. Since each system will need to operate at less than the full 12 channels of capacity during the transition period but each system will be carrying the full load of communications transiting the systems, there will be increased opportunities for capacity limitations to result in busy conditions or busies that are of a longer duration than currently experienced. This will cause frustration for the users and Dispatchers and may impact the timeliness of communications in extremely busy periods to time due to significant incidents.

Each system operator and their user community need to establish their own expectations for capacity management on their system. An often used metric evaluates the percentage of busies and their duration during the normal peak hour traffic across the system. For example, the intended service level threshold may be that no more than 1% of the push-to-talks receives a busy indication and the duration of time in the busy queue does not exceed 1 second. Others may plan their system capacity around large-scale emergency traffic conditions where traffic levels can spike several times higher than normal peak hour traffic volumes.

Whichever approach is used, it is advisable for BCES to have some traffic modeling done for the parallel-operating systems so that expected performance can be estimated before the dual use begins. If for example 6 channels are used on each system, the historical peak hour traffic data could be run against this channel capacity to predict the resulting user busy experience. Further, assumptions could be made of what traffic might look like in a significant incident so this scenario could be modeled as well. Regardless of the approach, having advance awareness and understanding of how the systems will perform during this transition period will be extremely important in helping establish the appropriate expectations in the Dispatch and user community.

Further, since this transition period brings the risk of capacity constraints having adverse impacts on operations, the time to completion must be carefully planned and managed. There may be a tendency among some of the user agencies to defer as long as possible the replacement of their analog radios with digital units. The user community needs to have a clear understanding that until the last agency completes their migration all users share the risk of impaired system performance. Every possible mechanism needs to be explored to complete the user migration in as timely a fashion as possible so that the parallel-system approach can be concluded as quickly as possible and the full system capacity restored to functionality.



3.6 Reasonableness of New System Lifecycle

There are a number of considerations when discussing the overall lifecycle of contemporary public safety communications systems. While the initial focus is often on the threshold date in the future that the system will need to be replaced, it is equally important to consider the periodic refreshments required during the life of the system. As discussed previously, contemporary communications systems utilize a large number of components that are grounded in the IT domain and as such experience technology refreshment and sometimes replacement cycles that are more on the 5 to 7 year cycle than on the 10 to 15 year cycles often expected for an overall radio system deployment.

The system architecture being proposed by Motorola is essentially its most current system level so from the outset Benton County will be entering the lifecycle of the system at its early stages instead of implementing a technology that is further along its lifecycle. Motorola has provided the following lifecycle guidance for the ASTRO 25 7.X system line. This is a standardized presentation that Motorola now uses to help customers have full awareness of the planned lifecycle for their systems and needs to be evaluated against the individual needs and circumstances of each system.

ASTRO 25 7.X System Life Cycle

- New System through: Dec 2011
- Add on Zones through: Dec 2013
- Software Releases through: Dec 2014
- Expand Master Site through: Dec 2014
- Add Simulcast/Voting Channels
 - Circuit Simulcast/Voting
 - Add sites Dec 2017
 - Add Channels Dec 2017
 - IP Simulcast
 - Add sites Dec 2017
 - Add channels Dec 2017

(Note: Circuit and IP Simulcast sub-systems can co-exist in same zone)
- Add Remote Sites through: Dec 2017
- Add Console Positions through: Dec 2017
- Add IR Channels through: Dec 2019
- Add subscribers through: Dec 2024

Last updated 10/17/07



For example, some systems have a continuing need to expand both the number of sites and the number of channels in the infrastructure as their communities grow and expand. These system owners pay careful attention to the threshold dates where the current system capacity can no longer be expanded. For situations such as in Benton County where there appears to be little long-term pressure to expand the system once it is complete these thresholds become less important. Depending on how you view it, the expected lifecycle for the currently proposed ASTRO 25 7.4 system could be viewed as anywhere between 9 and 15 years (9 years being the threshold for adding channels sites and console positions, and 15 years the threshold for subscriber units). This is comparable to lifecycles being experienced in other comparable system architectures and therefore appears reasonable.

It is important to note however that it is sometimes more likely that an incremental refreshment of the system infrastructure somewhere in the middle of its lifecycle can extend the ultimate supportable life of the system. Note that Motorola has identified 2014 as the year it would end software releases for this system version. From this point forward, it is still possible to add channels, sites, consoles and subscribers, but new features and functions will no longer be developed and issued for this system version. Motorola will still support the systems and resolve any software issues that affect existing system functionality, but new features cease. For most users this is not a problem since they often do not need new features and are content to run out the life of their system as is. This would appear to be the case for Benton County.

What is interesting about this point in time however (about 6 or 7 years into the overall system lifecycle) is that this is the time period where some of the IT-centric components of the system will likely need technology refreshment or replacement. For some system owners, this is an opportunity to refresh the system overall by moving to the next version level and thus extending the overall lifecycle of their system investment. Some system owners tackle this on their own initiative and funding, while others subscribe to a Motorola program that bundles services and system components into a combined annual cost over the life of the system. Whichever approach is taken it is extremely important that careful planning and economic modeling be done in advance to identify the appropriate approach for the individual circumstances of the system owner and users. BCES should conduct this planning as a part of the system procurement and design process.

4 Consequences of Not Upgrading at This Time

As discussed earlier in this report, many of the system components in the current analog system will continue to be supportable for several years to come. This may lead some to infer that the system does not need to be upgraded at this time. While the availability of spare 6809 controller parts from recently acquired used equipment may allow BCES to extend the life of the analog system an additional year or two, the loss of Motorola support for the 6809 components can't be overlooked.

Even if the assumption is made that all spares on hand currently are certified as operationally ready, BCES would be assuming the risks inherent with using a replacement part that would have no vendor support if it malfunctioned once placed in service. If the spare inventory was



insufficient to meet the failure experience across the combination of controllers in use, BCES could find itself in the situation of having a site off the air and no way to restore it to service. This seems to be an unacceptable risk given the routine and special emergency communications functions supported by the system. Given the most optimistic of assumptions about failure rates and used parts availability, it seems unlikely that BCES could delay the upgrade of the system beyond 2010.

There is also a significant non-technical risk of not upgrading at this time. Based on the information provided to iXP, it would appear that if the upgrade was not performed in the currently anticipated timeframe the opportunity for partial funding from the CSEPP program would be lost. This could be a substantial economic consequence to BCES as the full cost of the upgrade would be shifted to local funds even though the CSEPP communications needs would continue past the system upgrade point (assuming the upgrade took place in approximately 2010 and the weapons decommissioning continues through 2012/2013). All indications would point to the realization that the combination of technological and economic considerations lead to the conclusion that upgrading at this time is the reasonable course of action to follow.

5 Assessment of Alternative Technologies and Vendors

Certainly the utilization of a Motorola 800 MHz trunked radio system is not the only approach to meeting the communications needs of public safety agencies. A variety of other vendors and system technologies are available that can meet the various needs of users in their individual circumstances. In reality, none of these solutions are inherently better or worse than the other, instead they are either a good or bad fit given the needs and circumstances of the user community.

To assess the alternative approaches, it is first necessary to define the communications needs and requirements of the system users. As described to iXP, these include; high reliability, the ability to deal with high radio traffic demands during emergency conditions, coverage over a wide area for direct user-to-user communications, multiple paths of communication for different operational functions that are inherently interoperable, the ability to engage in secure communications when needed, and a system infrastructure that is fully supported and reliable over a reasonable life expectancy.

BCES spent a considerable amount of time and energy evaluating alternative technologies during the Radio Technology Workshop Series. iXP has reviewed the minutes and presentations from these sessions and believes that they provide a fairly comprehensive review of the advantages, disadvantages and limitations of each alternative. Instead of repeating information already developed, the following observations and assessments are intended to help summarize issues to aid in decision-making.



5.1 *Alternative Technologies*

While the mix of alternative technological approaches is large, there are really three key issues that need to be examined in the context of assessing the appropriateness of the upgrade under consideration for the BCES trunked radio system; whether trunking technology is needed, whether simulcast technology is needed, and whether digital technology is needed.

5.1.1 *Trunking versus Conventional*

Even though a trunked radio system can only support the simultaneous conveyance of the number of communications transactions that match its voice channel capacity, the practical reality is that the number of Talkgroups configured on the system can exceed the number of channels by some significant percentage. Since not all Talkgroups are typically used in a purely simultaneous manner, the trunked environment allows the system to be configured with a large number of Talkgroups that can be targeted to specific sub-groups of users. This expands their functional capabilities and allows them to tailor their communications patterns to match their operational and command & control structures.

If trunking is not utilized, the number of communications paths is limited to the number of channels that can be licensed. Any sub-group communications needs must be handled in a shared-channel fashion and this often limits the overall effectiveness for the end users. While it would be perfectly reasonable to conclude that a multi-site conventional repeater system could be constructed that could meet the coverage needs of the BCES user community, and such a system could be implemented at lower cost than a trunked radio system, it seems highly unlikely that a sufficient number of channels could be licensed to provide anywhere close to the capacity and flexibility currently enjoyed in the trunking environment.

5.1.2 *Simulcast versus Multicast*

In a simulcast configuration all channels operate at all sites so the combined coverage footprint and capacity is available to all users on the system over the entire service area. When combined with the benefits of integrated voting receivers the simulcast architecture often provides improved performance over multiple separate repeater sites, sometimes referred to as multicast. Simulcast systems also often consume far less spectrum than comparable capacity and coverage multicast systems since in a multicast system the required capacity has to be replicated several times over at each transmitter location.

Given the size and topography of the Benton County service area, the current success in utilizing simulcast technology, and the low likelihood that adequate spectrum could be acquired to construct a system of comparable capacity in a multicast configuration, the continued use of simulcast technology seems reasonable. It should be noted that the proposed system upgrade will actually utilize some multicasting elements (the filler sites at Golgotha Butte and Sillusi Butte). As noted earlier, the configuration of these sites and the uses allowed on these sites needs to be carefully planned and managed to make sure adverse user complications are avoided.



5.1.3 Analog versus Digital

The issue that seems to give all public safety agencies the biggest challenge is the movement from analog to digital technology. Many in the industry argue that analog technologies work fine for a vast majority of public safety communications needs, and when coupled with trunking and simulcast technologies provide a perfect combination for their circumstances. Indeed, this appears to be the case in the current BCES setting.

Unfortunately, the vendor community is not providing long term analog trunking alternatives for the mainstream public safety market. This is largely due to the regulatory requirement to utilize digital communications in the new 700 MHz public safety band. Since this band represents the only 'greenfield' opportunity for new system deployments in much of the county, and since systems deployed in this band will often either be expansions of existing 800 MHz systems or integrate with them in some manner, the entire marketplace for 700/800 MHz trunking systems is moving to digital technology. This is not just a Motorola phenomenon; it is an industry phenomenon.

Further, since the P25 set of standards provides an industry-wide baseline to allow radios and systems from different manufacturers to operate compatibly, the P25 standard is the most often observed digital deployment alternative. Alternative digital technologies do exist and many systems being deployed with these alternative technologies implement appropriate levels of P25 capabilities into their subscriber radios and system infrastructure to allow necessary levels of industry standard interoperability to be achieved.

5.1.4 Summary

Given the above discussions, it seems reasonable for Benton County to be following a system upgrade path that continues to utilize trunking technology, achieves maximum system performance and spectrum conservation by using simulcast technologies, and migrates to digital technology. It is also reasonable to pursue a path to deployment of a P25 Phase I system architecture since so much focus on P25 standardization has been generated in State and Federal communications planning initiatives. While not a hard and fast requirement, the utilization of P25 as the core system architecture, rather than just as an interoperability tool, tends to make the funding approval process flow much smoother.

5.2 Alternative Radio Bands

Public safety spectrum is available in the VHF, UHF, 700 MHz, 800 MHz and 4.9 GHz bands. Each of these bands has differing physical characteristics and regulatory constraints that influence their appropriateness for a given circumstance.

5.2.1 The VHF Band

The VHF band is not established in standardized frequency pairs so it can be challenging to identify pairs to use in a repeater configuration that avoid interfering with other users, being interfered with by those users, or creating unintended interference issues within the system design itself. Even if useable pairs can be found, utilizing those pairs in a wide-area simulcast system configuration can be even more challenging since the aggregate footprint of the simulcast



sites significantly expands the area where interference to and from adjacent-channel and co-channel users needs to be avoided.

Further, since the VHF band is currently in transition to 12.5 kHz channelization (often referred to as narrowbanding) there are a significant number of adjacent-channel interference issues that need to be factored into channel pair selection. The FCC has also signaled an intent to further narrowband the VHF band to match the end-state voice path efficiency of the 700 MHz band (one voice path per 6.25 kHz), but when this change might occur is being hotly debated at this time. Regardless, since this band is in a high degree of flux, it presents virtually insurmountable obstacles and uncertainty for designing and implementing a wide area system that could be assured a reasonable lifecycle expectancy. Finally, the licensing rules in the VHF band make it virtually impossible to establish exclusive use over the entire system service area, thus making the deployment of trunked radio systems significantly more challenging if even possible at all. Regions that have embarked on VHF trunked system deployments have found that the frequency coordination process is one of their most significant challenges.

The VHF band is well suited for the deployment of simplex systems but the need to have multiple transmitter sites at multiple locations to achieve wide area coverage, and the lack of repeaters to facilitate direct user-to-user communications limits their effectiveness in many settings.

5.2.2 The UHF Band

The UHF band is established in standardized frequency pairs so it is ideally suited to deployment in a repeater based system design. This makes it far easier to identify channel pairs that are appropriately separated to avoid interference challenges both within the system and with other licensees in the band. It is also easier to identify usable channels in rural areas since the concentration of use is lower than in urban areas, and channels can be licensed with enough protection from adjacent-channel and co-channel uses that trunked radio technologies can be deployed.

Like the VHF band, the UHF band is currently in transition to 12.5 kHz channelization and is also part of the FCC consideration for further narrowing to 6.25 kHz channel efficiencies. This creates an increasing set of challenges to identifying and securing channels that will have adequate interference protections or with the confidence of being to build a system with reasonable lifecycle expectancy. While the deployment of trunked radio systems is far more straightforward in the UHF band than the VHF band, it is far less common to see these systems in this band than in the 700 MHz and 800 MHz bands.

5.2.3 The 700/800 MHz Band

For all intents and purposes the 700 MHz and the 800 MHz bands can be thought of as one resource for the deployment of public safety radio systems although differences in the various sub-bands can influence the types of communications services they can support. For example, the 700 MHz band is specifically structured to predominately support voice radio systems and low-speed data applications. The current requirement to utilize no more than 12.5 kHz per voice path, and the close approaching requirement to improve this to one voice path per 6.25 kHz of bandwidth clearly favors voice-system utilization. Since these bandwidth requirements are



known in advance and since digital modulation is required in this band, system planners and operators have a very clear view of the future spectrum environment and can plan systems with reasonable lifecycle expectations.

The 800 MHz band has a mix of channelization restrictions that require careful consideration when selecting whether to use them for voice or data services. The initial block of public safety 800 MHz channels are a full 25 kHz and are well suited to either voice or data use. The second block of public safety channels, often referred to as the NPSPAC band, are 25 kHz channels but require lower deviation settings which make them well suited for voice use but limited in their data rates in data systems.

Benton County is in the enviable position of having virtually all of the 800 MHz channels currently licensed in the legacy block of 800 MHz public safety channels. Further, given how the 800 MHz band is being restructured nationwide to eliminate an interference problem with commercial systems (often referred to as re-banding) Benton County's channels have very few challenges in completing the re-banding process.

The 700/800 MHz bands are specifically structured with standardized channel pairs and channel spacing to easily allow them to be utilized in trunked radio systems. Further, the licensing rules actually require the use of trunking technologies once a certain number of channels are consumed to meet the needs of a jurisdiction.

5.2.4 The 4.9 GHz Band

The 4.9 GHz band was specifically authorized for public safety agencies to deploy broadband data systems to meet increasing wireless data needs. The band is well suited to deployment of 'WiFi-like' data systems and point-to-point links between wireless communications nodes. It is not well suited for wide area deployments or to deployments that are focused on voice communications.

5.2.5 Summary

Based on the operational needs and performance requirements expressed by the user community and the regulatory and technological constraints of the various public safety bands available, it continues to be a reasonable conclusion that deployment in the 800 MHz band is appropriate for the Benton County system.

5.3 Alternative Vendors

There are a number of vendors in the public safety communications industry that provide competitive alternatives to Motorola, particularly when mainstream trunked radio system deployments using P25 standards are being planned in the mainstream 700/800 MHz band. Some of these vendors offer full system solutions (infrastructure and subscriber radios) while others focus on the subscriber radio business. The key issue in evaluating whether to consider an alternative vendor is often more an issue of timing than it is one of better solutions being available from one over another.



If a totally new system were being planned for Benton County it would be highly advisable for the vendor selection process to be run in a competitive manner so that the best solution at the best price could be found. This is really not the situation that Benton County finds themselves in however. Instead, there is an operating trunked radio system that is reaching the end of its serviceable life and the system vendor can provide a migration path that makes limited re-use of some of the system components. This brings the opportunity to reduce the cost of implementation slightly and perhaps also negotiate favorable maintenance, financing or other provisions to help facilitate the overall implementation within available financial resources

Staying with the same vendor also allows placing the burden for effective parallel operations squarely on the shoulders of Motorola. If a new vendor selection process were to be conducted and Motorola were to not win the bid, Benton County would find itself in the position of having to sit between Motorola and a new vendor and arbitrate every detail of interfacing the systems to establish an effective parallel operation for migration. Further, if effective parallel operations could not be defined, Benton County would face the prospect of trying to force the user migration over an even shorter period of time so that adequate spectrum could quickly be moved to the new system environment or try and license additional spectrum to effectively double the current spectrum capacity so that both systems could operate effectively. Both of these appear to be unreasonable courses of action to pursue.

Based on the pricing iXP has observed in the proposal from Motorola to Benton County it would appear that they are offering pricing that is consistent with pricing they've offered in other parts of the country. Further, since some of these offerings were in competitive situations, it appears that the pricing being offered to Benton County is not abusing the captured-client nature of the trunked radio system marketplace. Even if a competitive process were to result in a system proposal that was slightly less expensive, the time and energy BCES personnel and their consultants would need to expend to run that process, and the prospect of having to manage the transition from one vendor's system to another, would likely quickly erode any perceived savings in the bottom line cost of the system from the vendor.

Finally, if the system is deployed as a fully compatible P25 system as currently planned, there will be numerous opportunities in the future to acquire subscriber radios that will have levels of system compatibility that would make them usable for a number of users on the system. While some of these other-vendor radios may not have all the features and functions of the Motorola radios on the system, they will often be more than adequate for a number of general government and low-intensity public safety uses. This availability of competitive subscriber equipment will help keep overall prices for this equipment in check and Benton County will likely not see subscriber radio prices rise disproportionately to the marketplace.

6 Conclusions and Recommendations

Based on all the information provided for iXP to review, the interviews conducted with representatives of the user community, BCES staff and BCES vendors and consultants, and iXP's experience in working with other clients facing similar new system and system upgrade



challenges, iXP is of the opinion that proceeding to plan an upgrade of the analog 800 MHz trunked radio system to an 800 MHz P25 digital trunked radio system is a reasonable course of action for Benton County to pursue at this time.

We must note however that it would appear that BCES has not yet established a firm grasp of the personnel and financial obligations they will be facing beyond what is covered in the Motorola proposal. Projects of this nature are extremely complex and require dedicated staff and consulting resources to assure that they are executed properly. As is typical of Motorola, but true of any knowledgeable vendor of complex solutions, the proposal carefully carves out what responsibilities Motorola will be assuming and what responsibilities belong to Benton County.

That list is quite significant, and when coupled with the numerous space and site challenges that will be faced as well as the unusual relationship between Benton County and WSEM for transport on the microwave system, BCES will need to establish a significant project team to lead this project to a successful conclusion. This cannot be accomplished as an other-assigned-duty by personnel already fulfilling normal job responsibilities. Some combination of temporary re-assignments, retention of temporary personnel and retention of outside consultants will be needed to establish a project team that can appropriately manage this effort.

Further, the annual maintenance costs for the new infrastructure will be higher than currently faced in the analog system environment and some mechanism will be needed to cover this cost. The most common approach seen in similar systems is to establish a user fee that is often assessed on a per-radio basis so that all users of the system share a proportional burden for the maintenance and operation of the system. While this is a common approach, it is not necessarily easy to embrace in the user community if current user rates are artificially low or non-existent. Careful economic modeling should be done to establish a rate that can both meet the economic interests of the user community while also providing adequate support to the system infrastructure. It is sometimes possible to capitalize some portion of the system maintenance costs in the purchase transaction itself to lessen the burden on the ongoing O&M rates.

Finally, counties in Washington State are authorized to propose to their voters a 1/10 of 1% local option sales tax that can be dedicated to the support of public safety communications systems. Many counties facing the same situation as Benton County have used this mechanism to establish a dedicated funding stream to help cover ongoing system O&M and replacement costs. Taking this approach is another way to help mitigate the user fee that may be established to support the system.

The investments BCES would be making in this upgrade may also allow the system infrastructure to be utilized to offer communications services to other users or regional system partners. As a current version system the new digital infrastructure would be the most contemporary infrastructure in the region and likely very attractive to potential additional customers.



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HORSE HEAVEN HILLS SOUTH
COUNTY WATER PROJECT

Comnr. Oliver / Duane Unland

See Phase I, III & III Briefing Report

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BENTON COUNTY
COMMISSIONERS

**Review of the Columbia River Initiative Proposed Rules
With Investigation of the McNary-John Day Pools
Water Right Reserves**

Phase I Briefing Report

**Report Prepared for the
Benton and Klickitat County Commissions**

Report Prepared By:

**Nakaty Enterprises
Yakima, Washington**

**Pacific Northwest Project
Kennewick, Washington**

**IRZ Consulting
Hermiston, Oregon**

September 2004

Phase II
Historical Review
Benton - Klickitat County Study
of the
John Day-McNary Water Reserve

By

Nakaty Enterprises
Yakima, Washington

And

IRZ Consulting, LLC
Hermiston, Oregon

And

Pacific Northwest Project
Kennewick, Washington

June 30, 2005

Water Reservation Protection for Future
Development in Benton and Klickitat Counties
Economic Units

Phase III Briefing Report

Report Prepared for the Benton and Klickitat
County Commissioners

Report Prepared By:

Nakaty Enterprises
Yakima, Washington

Pacific Northwest Project
Kennewick, Washington

IRZ Consulting, LLC
Hermiston, Oregon

May 2006

Preliminary Draft
Phase IV Scope of Work for Initial Development and screening of
Design Alternatives for Water Storage, Conveyance, and Irrigation of
Horse Heaven Hills

Introduction

Benton and Klickitat Counties have completed Phase I, II and III studies as part of an initial evaluation of the McNary-John Day Pools Water Rights Reserve (September 2004, June 2005, and May 2006). This effort was part of evaluating the potential development of irrigated agricultural production lands in Eastern Klickitat and Southern Benton Counties. Growth in these areas will require utilization of water from the reserve created by Washington State Legislature (enabling legislation, reserve adopted by WAC 173-531A) in 1977 from the John Day/McNary pools. The WAC was modified in 1979 and the reserve was again verified to be in place in 2006.

It is the intent of this scope of work to implement a Phase IV feasibility study. The study will identify and screen design alternatives for conveyance, storage and use of the McNary-John Day Water Reserves in current and future development of the Horse Heaven Hills (HHH) Area. Given the magnitude of the project, Phase IV would define the goals for the project, review historical information from past studies, develop and screen potential project alternatives and recommend a preferred list of alternatives that the County would consider carrying forward into detailed analyses. **Phase IV would provide the next manageable step in developing a basis for project viability, and justification to continue funding subsequent phases of conceptual design development.**

This proposed phase of work primarily addresses technical issues related to project feasibility. Legal or political issues related to the ultimate availability of a specific quantity of water, while of ultimate crucial importance, are not addressed here in depth.

Phase IV Key Study Questions

The HHH feasibility study will identify and evaluate the basic water use, storage, conveyance, and power generation project design concept. It will provide sufficient information to decide whether continued development of a conceptual design is warranted by addressing the following key issues:

- Issue 1: Projected agricultural practices and crops,
- Issue 2: Allowable withdrawals of water from the Columbia River at various time intervals (i.e. weekly, monthly quarterly),
- Issue 3: Volume of water storage capacity within the proposed water storage reservoir areas with freeboard requirement allowances,

Preliminary Draft
Phase IV Scope of Work for Initial Development and screening of
Design Alternatives for Water Storage, Conveyance, and Irrigation of
Horse Heaven Hills

- Issue 4: Preliminary suitability of the proposed water reservoir sites for dam construction and containment of water with acceptable low seepage losses,
- Issue 5: Preliminary suitability of proposed water conveyance alignments (assumed to be canals) to convey water with acceptable low losses,
- Issue 6: Potential hydropower generation capacity from proposed reservoir storage site(s) water releases,
- Issue 7: Possible locations for water pumping station locations and pumping capacities,
- Issue 8: Potential wind farm capacity (availability and reliability) that could be developed as a power generation source on and off the project site, and
- Issue 9: Possible tribal concerns on real and perceived water and land rights that could be evident at the start of Phase IV or could evolve later.

The anticipated Phase IV work elements are described as follows:

Task 1: Develop Project Objectives

The contractor will meet with County, irrigators and other interested parties/stakeholders to discuss future water needs in the HHH area. The discussions will focus on the follow topics:

- Current and past irrigation practices and problems,
- Future crops and irrigation needs,
- Land and crop values versus cost of developed water,
- Potential reservoir and canal alignment,
- Alternatives to reservoirs and canal systems,
- Phasing of project development,
- Beneficial effects to fisheries,
- Issues facing approval of water withdrawals/schedule/pumping rates, and
- Potential tribal concerns and issues.

A short technical memorandum will be developed that identifies common goals and goals that may be unique to one or more parties. The goals will be used to guide alternative selection and screening.

Task 2: Acquire, Review and Summarize Available Reports, Data and Information

Preliminary Draft
Phase IV Scope of Work for Initial Development and screening of
Design Alternatives for Water Storage, Conveyance, and Irrigation of
Horse Heaven Hills

The contractor will collect background information from previous studies conducted in the HHH area necessary to summarize current conditions including:

- Current water use in the HHH. (Basic review of data found in the HHH Phase III report),
- Published soil surveys, aquifer data and geologic maps (identify limiting factors; including soil chemistry, topography, and potential for active recharge of the aquifer (groundwater banking and/or conjunctive use) and potential for developing drainage problems),
- Current water withdrawals and permit applications. (Including data found in the Phase III report and work being conducted by Ecology under HB 2860),
- Current and future activities within WRIA 31. The HHH development is likely to determine features that the Planning Unit would need to consider or recommendations by the Planning Unit which may be included in the HHH conceptual plan of development,
- Potential fisheries benefits and impacts that may be derived by project development, and
- Potential terrestrial species issues.

In addition to these summaries, this task will:

- Prepare project base maps needed for use in development of design alternatives, and
- Conduct a preliminary geotechnical and geological site reconnaissance of proposed canal alignments, reservoir areas, dam sites, and surrounding areas.

Task 3: Define/Develop Study Assumptions and Screening Criteria

Based on the currently available information, the contractor will prepare a technical memorandum that identifies the assumptions to be used in the Phase IV study. The technical memorandum will be submitted to the County and stakeholders for review and comment. The types of assumptions that may be developed or modified during Phase IV include:

Preliminary Draft
Phase IV Scope of Work for Initial Development and screening of
Design Alternatives for Water Storage, Conveyance, and Irrigation of
Horse Heaven Hills

- Quantity of water available for irrigation,
- Timing (seasonality) of water availability,
- Additional acreage to be irrigated, and
- Allowable alternative pumping schedules based on water withdrawal restrictions.

Screening criteria may include economic, environmental, constructability, or political and legal considerations.

Task 4: Describe Project Alternatives

The contractor will describe current technologies applicable to water storage, conveyance and distribution, and power generation. The technologies will be evaluated and a preliminary list of potential alternatives developed. The alternatives will be screened according to criteria developed in Task 2, presented to the County and stakeholders for review and discussion, and then, based on comments, reduced to a smaller number of preferred alternatives to be carried forward for detailed analyses in a subsequent Phase of work. Work under this task will include:

1. **Agricultural Crop Needs:** Evaluate the types of existing and likely future crops that would benefit from project development, and develop information needed to provide a basis of crop alternatives and likely system demands. The information that should be developed but not necessarily limited to includes:
 - a. A conceptual monthly water balance covering multiple cropping alternatives. The water balance will take into account crop-specific evapotranspiration (ET) requirements and will assume irrigation efficiencies based on typical delivery systems (e.g., drip and center-pivot). The water balance will be used to develop preliminary system demands for facility/equipment sizing and operational modeling. The time step will be monthly and will include calculation with and without (drought conditions) effective precipitation
 - b. A preliminary project operations model. The preliminary model, which would be refined in later phase of work, will be used to generate data for evaluating conceptual conveyance facility and reservoir sizing requirements. Later versions will use an increased number of distinct nodes for each delivery/demand point and to address reservoir pump/generation operations.

Preliminary Draft
Phase IV Scope of Work for Initial Development and screening of
Design Alternatives for Water Storage, Conveyance, and Irrigation of
Horse Heaven Hills

2. **Prepare List and Description of Applicable Technologies:** Based on a review of current literature, a list will be prepared to identify current or evolving technologies that may be applicable to the technical needs of the HHH project. Technologies should include but may not be limited to design of:

- Pumping Facilities,
- Water Conveyances,
- Dams and Water Storage Reservoirs,
- Hydropower Generation Facilities,
- Wind Power Generation Facilities,
- Power Transmission Lines, and
- Irrigation systems appropriate to anticipated crops.

3. **Develop and Screen Design Alternatives**

The contractor will evaluate and prepare a matrix of design alternatives using the technologies described in Task 2. Each alternative will be described as to how it may meet the goals of the project as described in Task 1. The alternatives will then be compared to the screening criteria and the most feasible alternatives identified as potential candidates for further consideration.

Task 5: Alternatives Meeting and Report of Findings

The contractor will meet with the County and stakeholders to present the candidate alternatives and discuss the merits of each alternative and the screening process used.

Based on feedback from the meeting the contractor will prepare a short technical memorandum that presents the recommended alternatives that should be carried forward for further development and evaluation in subsequent phases of work.

Memorandum

10:55

To: Benton County Board of Commissioners
CC: Bobbie Gagner, Duane Davidson, Barbara Wagner, Ross Dunfee, Marianne Ophardt; Roy Rogers, Melina Wenner, and Randy Reid
From: David Sparks, Loretta Smith Kelty, and Roy Rogers
Date: 4/21/2008
Re: Space Needs Request – 2nd Presentation with Current Physical Storage Need Options

On December 17, 2007, the Benton County Board of Commissioners asked the County Administrator to research the space needs of county departments. On February 11 and March 12, 2008 the recommendation was given to the Benton County Board of Commissioners.

An estimate of total project cost for a 40,000 square foot Administrative Building is \$11,343,750.
An estimate of total project cost for a Courthouse Remodel is \$3,832,485.
Financing this project would require \$15,176,235 with average annual payments between \$1,043,187 and \$1,278,470.

Direction from the Benton County Board of Commissioners was given for the County Administrator to prepare options that would address current physical storage needs (see attached).

If you have any other questions we would be happy to address them.

ADMINISTRATION BUILDING

Administration Building	Square Ft.	40,000
Underground Parking	Square Ft.	20,000
Estimated Garage Parking Spaces with Mail Room		100
Estimated Number of County Spaces Needed		70
Estimated Administration Building Construction Costs	\$ 165	\$ 6,600,000
Estimated Underground Parking Construction Costs	\$ 83	\$ 1,650,000
Estimated Administration Costs	38%	\$ 3,093,750
Total WAG		<u>\$ 11,343,750</u>

COURTHOUSE REMODEL

New Building	Square Ft.	9,380
New Building Construction Costs	\$ 214	\$ 2,008,399
Remodel Courthouse Construction Costs	\$ 67	\$ 628,446
Administration Costs	40%	\$ 1,065,286
Additional Work		\$ 130,354
Total		<u>\$ 3,832,485</u>

FINANCING AN ADMINISTRATIVE BUILDING & COURTHOUSE REMODEL

20 Years		\$ 15,176,235
Average Annual Payments		\$ 1,278,470
25 Years		\$ 15,176,235
Average Annual Payments		\$ 1,043,187

OPTION A ADMINISTRATION BUILDING 3rd FLOOR

New Building 3rd Floor	Square Ft.	20,000
New Building 3rd Floor Construction Costs	\$ 60	\$ 1,200,000
Administration Costs	19%	\$ 222,000
Total		<u>\$ 1,422,000</u>

OPTION B 800 W. CANAL DRIVE HEALTH BUILDING RENOVATION

800 W. Canal Dr. Health Building Renovation	Square Ft.	10,000
Purchase 800 W. Canal Dr. Health Building		\$ 500,000
800 W. Canal Dr. Health Building Renovation Construction Costs	\$ 30	\$ 300,000
Administration Costs	40%	\$ 121,200
Total		<u>\$ 921,200</u>

11:10 am

Executive Session

1st Quarter Litigation Update

R Brown

11:20

BENTON COUNTY PROSECUTOR
7122 W. Okanogan Place, Bldg. A
Kennewick WA 99336
Telephone: 735-3591 Fax: 736-3066

ATTORNEY-CLIENT PRIVILEGED DOCUMENT - DO NOT DISCLOSE

TO: Board of County Commissioners
Mr. Max Benitz; Mr. Leo Bowman; and Mr. Claude Oliver

CC: Mr. Ross Dunfee, Public Works
Mr. Steve Becken, Public Works
Mr. Adam Fyall, Commissioners Office

FROM: Kathleen Fitzgerald, Deputy Prosecutor

DATE: April 17, 2008

RE: For Executive Session, Monday, April 21, 2008
Proposal to Transfer of Water Rights to Two Rivers Park
and Status of Water Rights on County Owned Property

I. ISSUE

The County has five (5) real property parcels with a total acreage of 6.62 acres. The Columbia Irrigation District ("CID") has allocated water to each of these parcels and has assessed the County for irrigation to these parcels. However, CID alleges that the County has not beneficially used the allocated water on any of the parcels and CID is requesting that the County relinquish the water so that it may be reallocated by CID to other properties within its boundaries.

II. STATUS OF COUNTY EFFORTS TO ADDRESS CID's CLAIMS

A. Proposal to Transfer Water Rights to Two Rivers Park

On Tuesday, April 8, 2008, a telephone conference was facilitated by representatives of the County to address the viability of the proposal to transfer water on County owned properties (see Section II below) to Two Rivers Park.

The County was represented by Commissioner Claude Oliver; Ross Dunfee and Steve Becken from the Public Works Department; Adam Fyall; Dennis Rockwell, manager for Two Rivers Park; and Kathleen Fitzgerald from the Prosecutor's Office. The Columbia Irrigation District was represented by its attorney Terry Miller and the

District Manager, Larry Fox. The Corps of Engineers was represented by David Morbach, Jana Brinlee, and Robert Eggleston.

Mr. Rockwell expressed his ongoing concern that Two Rivers Park has had an inadequate water allocated to it to irrigate the entirety of the Park. The Park has 22 acres of land that requires irrigation but Mr. Rockwell only had authority to irrigate just 14 acres. That is why Mr. Rockwell and the Parks Board was so eager to have water transferred to Two Rivers Park from County owned property. The water transfer from the County would have covered the outstanding need for water in the Park.

Mr. Rockwell advised that he searched his files and could find no written documentation of the authority or permit for water for Two Rivers Park. He claimed that he has attempted many times to get this information but it was never provided to him.

During the telephone conference, representatives from the Corps of Engineers referenced permits signed and authorized by the Department of Ecology which fully covered the needs of Two Rivers Park (21 acres). The permit was signed in 1979. We have received copies of the documents from the Corps of Engineers. At this time, Adam Fyall is working with his contact person at the Department of Ecology to confirm that Two Rivers Park is in fact fully covered with water allocated for the 21 acres of the Park.

The information by the Corps of Engineers killed the proposal for transferring the water allocated to County property to Two Rivers Park. There is simply no need to take this action. The County is back at square one.

The CID Board of Directors is holding their next meeting on Monday, May 6, 2008. I was advised by CID District Manager, Larry Fox, at the close of the telephone conference on April 8, 2008, that the County will need to present a written plan for full utilization of the water rights on County owned property. If the County does not provide a written plan on or before that date, the CID Board will make a determination that the County is not beneficially using the water allocated to these properties and the water will then be transferred by CID to other properties within the CID boundary.

B. Status of Water Rights on County Owned Property

The following properties are subject to losing water allocated to it by the CID:

1. Parcel No. 1-0598-103-0003-001 (Dike/Tax Title) [0.13 acres]

This is a dike on the Yakima River located in Bridge Acres in West Richland. It was obtained by Treasurer's Deed on 12/22/1993. The parcel is landlocked.

2. Parcel No. 1-0598-103-0010-001 - (Dike) [0.34 acres]

This is a dike on the Yakima River located in Bridge Acres in West Richland. It was obtained by a condemnation taking for Diking District No. 1, Superior Court Case No. SC 15959. The parcel is landlocked.

3. Parcel No. 1-0980-300-0023-000 - (Near CID Shop) [2.22 acres]

This is a triangular piece of property located near the Columbia Irrigation District shop east of Kennewick. This is a landlocked property bordered on the east by the railroad, the south by the State, and the west by the Corps of Engineers and the Columbia Irrigation District. Besides being landlocked, the ground consists of river rock that would take extensive landscaping if it were to be used for a home site. With no access it would be difficult to utilize this property for any kind of business.

The Assessor's Office states that this is a 2.22 acre parcel, however, the County is being invoiced from CID for 3.34 acres of water. In the past, CID has expressed some interest in this property. As an option, this property could be offered for sale to CID to aid in securing the CID shop site.

4. Parcel No. 1-2180-201-0162-005 - (Right-of-Way) [0.06 acres]

This is road right-of-way. When the adjoining land was short platted the survey did not include the road in the short plat. Because no deed had been filed formally transferring the right-of-way to the County, the Assessor assigned the land a parcel number.

5. Parcel No. 1-2680-400-0009-001 - (Right-of-Way) [3.37 acres]

This is land that was purchased for the Intertie. The entire parcel of property was purchased to avoid leaving an uneconomic remnant.

III. OPINION OF DEPARTMENT OF ECOLOGY RE: CID's ACTION

On April 9, 2008, Kathleen Fitzgerald, Ross Dunfee, and Steve Becken had a telephone conference with G. Thomas Tebb. He is the Water Resources Section Manager for the D.O.E. and works out of the Yakima office. Mr. Tebb advised that, in his opinion, CID has the authority to move water within its District at its discretion. He advised that the water right is held by the irrigation district, not each individual landowner. The landowner has shares of the water right. He advised that the irrigation district must manage its water and ensure that it uses the full amount of water that goes into their system and that has been allocated to the district. This is what the Department of Ecology is looking at.

IV. OPTIONS

A. Board grants authority and approval for County to voluntarily relinquish water on the properties identified above.

B. Board requests further efforts to find other properties owned by the County which may require water and attempt to transfer the water allocated to the above properties to properties with deficient water supply.

Note: CID is pressuring the County to provide a detailed, written plan for utilization of the water on or before its next Board meeting on May 6, 2008.

A Message from the 2008 Legislative Steering Committee Co-Chairs

We want to thank all of the Legislative Steering Committee members, caucus and sub-committee members, WSAC members, single-county lobbyists, partner organizations and WSAC staff who forwarded the Association's 2008 Legislative Priorities. Although 2008 was a short non-budget session, significant policy issues were debated that both helped and harmed counties. We thank everyone for their efforts in making the 2008 session a success.

We extend our sincere thanks to Governor Gregoire, the Washington State Legislature, and their staffs for their support of our Association and Washington's 39 counties. The WSAC priority bills and positions they advanced are highlighted in this publication.

It is our honor to serve as your LSC Co-Chairs; we look forward to continued conversations about our policy positions in anticipation of next session.

Councilman John Koster, Snohomish County (Electronic Signature)
Commissioner Todd Mielke, Spokane County (Electronic Signature)

Many entered the 2008 legislative session with high hopes, but low expectations. Those hopes are evidenced by the 1500+ bills introduced, of which nearly two-thirds impacted counties. However, a weak economy was confirmed by a \$425 million drop in state revenue quickly dashed any optimism the 2008 session would produce major policy initiatives. Adding to the "get out of town" atmosphere was upcoming statewide elections and the uncertain impact of Initiative 960 on revenue and fee related bills. WSAC is pleased with the overall outcome of the session with counties achieving modest gains and few losses from the 335 bills ultimately enacted. Following is a list of major legislative issues that WSAC actively engaged in during the 2008 Session. This list is inclusive of WSAC Priorities, other important accomplishments, and unsuccessful legislation that may return next session.

WSAC 2008 Legislative Priorities

COUNTY FISCAL HEALTH

SSB 6791 - Clarifying Permitted Uses of the County Sales and Use Tax for Chemical Dependency or Mental Health Treatment Services. This enacted legislation supports WSAC's priority of making county funding sources more flexible by clarifying that uses of the 1/10th sales and use tax for chemical dependency or mental health treatment services include treatment services, case management, and housing. It also affirmed that non-supplant provisions do not apply to lapsed federal funds.

Budget Highlights include an additional \$6.25 million for mental health service for non-Medicaid eligible persons served by RSNs and a \$2.8 million RSN rate adjustment. Funds are also provided to the Department of Retirement Systems to convene a workgroup to study how to fund local governments' LEOFF Plan 1 health care benefits.

ECONOMIC DEVELOPMENT

2SSB 6855, Concerning Funding for Jobs, Economic Development, and Local Capital Projects. WSAC supported this enacted legislation to establish the Community Economic Revitalization Board (CERB) as the primary means for distributing funds for economic development to rural and urban areas. To that end, the bill provides 75% of the first \$20 million in available funds to rural areas. Any additional funds would be divided equally between rural and urban areas. The legislation also implements WSAC's position of no further diversions from the Public Works Assistance Account by eliminating the Job Development Fund.

SB 6476 & SSB 6797 - County Sales and Use Taxes for Economic Development in Rural and Urban Counties. WSAC was successful in introducing legislation to provide rural and urban counties state funding for economic development purposes. Although the legislation had strong support in their policy committees, they did not advance due to their fiscal impact.

PUBLIC SAFETY FUNDING

ESSB 6573 - Providing Additional Revenues for Public Safety. This enacted legislation supports WSAC's priority of additional public safety funding by dedicating state funds in equal portions for local criminal justice or public safety services and for future LEOFF Plan 2 benefits (adopted by the Legislature and fully funded by the state). Funds are contingent upon general state revenues increasing more than 5 percent over the previous biennium. Distributions begin in 2012 with \$5 million deposited for the biennium. Funding increases to \$50 million by 2017.

E2SHB 2712 - Concerning Criminal Street Gangs. WSAC supported this enacted legislation, to establish a grant program for local law enforcement agencies with the goal of targeting gang crime. Also, as requested by county elected officials, the legislation creates new gang related crimes and increases criminal and civil penalties for gang-related crimes and activities.

Budget Highlights include \$750,000 for law enforcement grant programs to target gang violence and graffiti abatement efforts from HB 2712, \$5 million to contract with local law enforcement for in-person verification of the addresses and residency of registered sex offenders and kidnapping offenders, and \$853,000 for five additional basic law academies to train 160 officers.

GROWTH MANAGEMENT ACT (GMA) & HOUSING

ESSB 6580 - Addressing the Impacts of Climate Change through the Growth Management Act. As originally introduced, this bill would have added climate change impacts as a new element to the Growth Management Act (GMA). WSAC along with cities and the business community opposed this mandated portion of the legislation and the bill did not advance until it was removed. As enacted, the bill requires Department of Community, Trade and Economic Development (DCTED) to develop and provide counties and cities with advisory climate change response methodologies, a computer modeling program, and estimates of greenhouse gas emission reductions resulting from specific measures. Consistent with WSAC's priority of deference to local decision making, the legislation prohibits Growth Management Hearings Boards from hearing petitions alleging non-compliance based on this act.

ESSB 5959 - Providing Assistance to Individuals and Families who Are or At Risk of Being Homeless. This bill supports the WSAC priority of affordable housing by creating the Transitional Housing Operating and Rent Program to assist homeless individuals and families as well as individuals and families at risk of homelessness, and to secure and retain housing through the provision of rental vouchers, case management and operating expenses.

2SSB 2683 - Creating an Affordable Housing for All Program. Although this bill was not enacted, WSAC positively influenced its content by including WSAC's Priority of a Joint Legislative Audit & Review Committee review of the Growth Management Act.

Budget Highlights include \$2.5 million to implement the Transitional Housing, Operating and Rent Program from ESSB 5959 and an additional \$70 million for the Housing Trust Fund.

Other Legislative Accomplishments

HB 2637 - Concerning Records in a Criminal Case. WSAC, along with the Washington Association of Prosecuting Attorneys, supported this legislation to allow records used as evidence in a criminal proceeding to be authenticated by the record's custodian by affidavit,

declaration, or certification. This eliminates the need of the record custodian to appear in court without testimony, which reduces the county costs.

ESHB 2438 - Extending a Pilot Project That Allows for the Use of Dogs to Hunt Cougars. WSAC supported this legislation of particular interest to rural county to extend the pilot program that authorizes the hunting of cougars with the aid of hounds for an additional three years and allow additional counties, based on certain criteria, to opt-into the program.

2SHB 2514 - Protecting Orca Whales from the Impacts from Vessels. WSAC supported this legislation of particular interest to coastal counties to prohibit people and their vessels from being within 300 feet of any southern Orca whale, or feeding any southern Orca whale, without an express exemption. Moreover, it requires the State Parks and Recreation Commission and the Department of Fish and Wildlife to disseminate information about the prohibitions, exemptions, and other regulations regarding southern Orca whale.

SSB 6297 - Changing Elected Prosecuting Attorney Salaries. WSAC supported this priority legislation of the Washington Association of Prosecuting Attorneys to increase the state contribution to elected county prosecuting attorneys to one-half the salary of a superior court judge. Upon receipt of the state's contribution, each county must continue to contribute an amount equal to or greater than the amount it contributed in 2008 towards the elected county prosecuting attorney's salary.

SB 6885 - Expanding the List of Persons and Entities that May Acquire Driving Record Abstracts for Certain Purposes. A priority of the Washington Counties Risk Pool, WSAC supported this legislation to allow units of local government authorized to self-insure to receive driving record abstracts upon request. This legislation allows counties to reduce their risk of liability and protect the public from employees with poor driving records.

Other Significant Legislative Issues

ESHB 1727 - Planning to Ensure Sufficient Land and Densities Available to Accommodate Growth. Although WSAC supported the overall concepts of most sections of this legislation, WSAC opposed its requirement that counties adopt city development regulations for unincorporated territory surrounded by incorporated territory. WSAC opposed the statewide preemption of county authority in unincorporated areas. The legislation was not enacted.

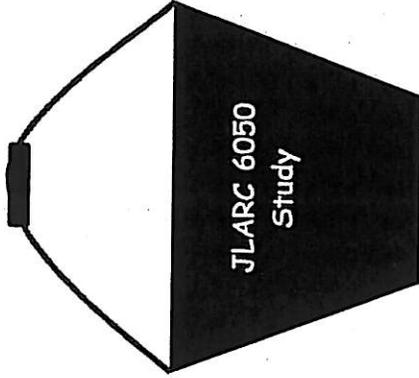
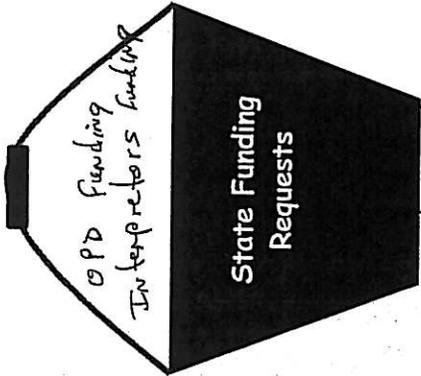
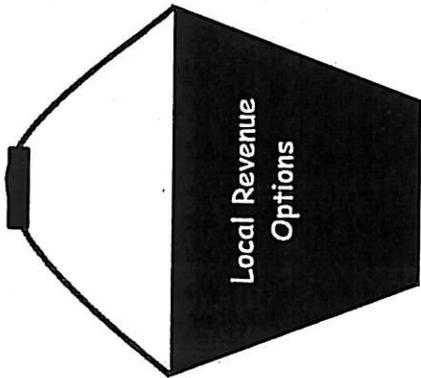
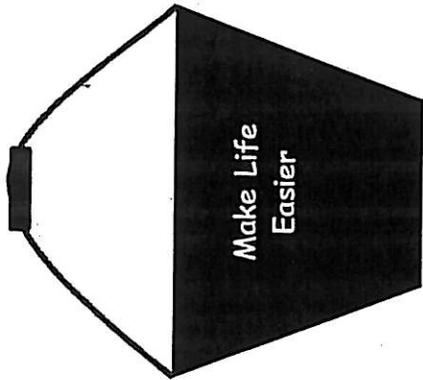
ESHB 3160 - Addressing the Availability of Nutrition Information. This legislation would have enacted a statewide moratorium on local boards of health and health districts from regulating or mandating menu labeling or nutritional information disclosure while a legislative task force examined the issue. WSAC opposes preemption of local control and this legislation was not enacted.

HB 3292 - Recording Executive Sessions Under the Open Public Meetings Act. This legislation would require the audio recording of all executive sessions conducted by a governing body under the Open Public Meetings Act. WSAC opposed the legislation because of the chilling effect on the free flow of discussions on sensitive matters, particularly privileged attorney-client discussions. Although the legislation did not advance in 2008, it is likely to return in the 2009 legislative session.

E3SHB 1873 - Changing the Requirements and Recoveries Under a Wrongful Injury, Death or Survival Action. This legislation would expand the number of beneficiaries of a wrongful death action and allowed for non-economic damages. WSAC opposed this expansion civil liability because of the inherently risky activities only local governments provide such as police, fire, and probation services. Although the legislation did not advance in 2008, it is likely to return in the 2009 legislative session.

SSB 6404 - Modifying the Process for Designating Regional Support Networks. WSAC helped positively shape this enacted legislation related to procurement process of Regional Support Network (RSN) to provide mental health services. WSAC influenced the bills' notice requirements, the prohibition on serving as an RSN, and the scoring process used to evaluate for-profit and non-profit entities seeking RSN designation.

SSB 6609 - Limiting the Charge for Permits for Specialty Agricultural Buildings. This bill would establish a statewide limit of \$75 on the amount that can be charged for specialty agricultural building permits. WSAC opposed the preemption of local control to set building permit fees and the bill was not enacted.



*Drug Courts funding
MHealth Courts*

<ul style="list-style-type: none"> • Eliminate special elections 	<ul style="list-style-type: none"> • Countywide Utility Tax 	<ul style="list-style-type: none"> • Public health funding 	<ul style="list-style-type: none"> • Actively engage in JLARC Study
<ul style="list-style-type: none"> • Eliminate mailings to inactive voters 	<ul style="list-style-type: none"> • Additional 1/10th sales tax 	<ul style="list-style-type: none"> • Courts - indigent defense, interpreter services, specialty courts (drug, mental health, etc.) 	<ul style="list-style-type: none"> • Meet with JLARC members
<ul style="list-style-type: none"> • Expedite Medicaid eligibility for county jail inmates 	<ul style="list-style-type: none"> • Remove non-supplant clauses and dedication from current revenues 	<ul style="list-style-type: none"> • Human services 	<ul style="list-style-type: none"> • Meet with Legislators in Counties receiving 6050 funds
<ul style="list-style-type: none"> • Bid limits 	<ul style="list-style-type: none"> • Remove 1% cap on specific property tax levies (veteran's assistance, criminal justice, mental health, conservation futures, etc.) 	<ul style="list-style-type: none"> • Funding for specific technology enhancements (annual revaluations) 	
<ul style="list-style-type: none"> • Increase day labor limits or allow unlimited day labor for specific types of projects 	<ul style="list-style-type: none"> • Harmonize first and second quarter of real estate excise tax 	<ul style="list-style-type: none"> • Increase rural county sales tax credit for economic development and add urban counties 	

4-20-08

Copy of WSAC Bill Summary - 2008 Legislative Session Final

General Government				
Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
HB 1742 / SB 5566	Voter registration info	S Rules 3	Support	Auditors Association priority. Exempts voter birthdates from the voter registration records or files available for public inspection and copying. Prohibits the public from copying the portion of the absentee ballot return envelope that has voter signatures and telephone numbers; this is available only for inspection.
E3SHB 1873 / SSB 6696	Wrongful injury or death	H Rules 3C	Oppose	House version expanded the number of beneficiaries of a wrongful death action and allowed for non-economic damages. Senate limited child death actions to persons under the age of 26 and eliminated joint and several liability for state and local governments. Died on the Senate floor. Likely to return in 2009.
2ESHB 2016	Eminent domain	H Rules 3C	Concerns	Would require public entities to consider other reasonable alternatives to condemnation, remove cap on evaluator fees, required the offer of a right of repurchase, and prohibited the use of condemnation substantially for economic development purposes. Bills was amended substantially in legislative process to restore the cap on evaluator fees and exclude transportation projects from bill's effect. Died in Senate Transportation. Likely to return in 2009.
HB 2473	Inactive voters	H Rules 3C	Support	Eliminates the requirement that a county auditor send inactive voters a ballot or ballot application at least 18 days prior to an election.
SHB 2567	Open public meetings act penalties	H Rules 3C	Neutral	Increased the current civil penalty of \$100 for willful violations for violations of the Open Public Meetings Act to an amount between \$250 and \$1,000 as determined by a judge.
SHB 2833	All mail voting	H Rules R	Concerns	Required counties with fewer than 500,000 active registered voters to conduct all elections entirely by mail effective immediately; counties with more than 500,000 active registered voters by January 1, 2009. Concerns with financial impact to counties and state preemption of local choice in how elections are conducted.
HB 3292	Executive sessions	H Rules C	Oppose	Requires the audio recording of all executive sessions conducted by a governing body under the Open Public Meetings Act. Likely to return in 2009.
E2SSB 5271	Special elections	S Rules 3	Support	Auditors Association priority. Eliminated the March and May special election dates.

Ecology Bill Office - DNR

E2SSB 5278	Public funds for politics	Governor Signed	Neutral	Removes the prohibition of using public funds to finance political campaigns for local office provided that any public finance program be approved by the voters and that funds for the program are derived from local sources.
SSB 6181	Canvassing board membership	Governor Signed	Support	Allows the chair of a county legislative body in a county with a population over 1 million to designate an employee of the legislative body to serve on the county canvassing board.
SSB 6547	Community athletics programs	S Rules X	Opposed	Prohibits counties and other local governments from discriminating against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults. Additionally, male and female athletic participants must be accorded equal opportunities for participation in community athletics programs, both in quality and scope. Washington's anti-discrimination provisions are applied to community athletic programs.
SSB 6704	Special meetings	S Rules X	Concerns	Required any public entity that calls a special meeting to post a notice on the agency's web site, if any, and prominently display at the main entrance of the agency's principal location and the meeting site if it is not held at the agency's principal location, within twenty-four hours before the time of such meeting.
Budget, Finance & Taxes				
Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
E2SHB 1621	Preserving manufactured/mobile homes	Governor Signed	Neutral	Provides an exemption from the real estate excise tax if a landlord of a manufactured/mobile home community voluntarily sells the community to a tenant organization or an eligible organization for the purpose of community preservation. The exemption expires December 31, 2018.
SHB 2609	Digital imagery	H Approp	Support	Assessors Association priority. Allows digital image technology to satisfy the physical inspection requirement of a county's property tax revaluation plan for property that is damaged through natural disaster, property for which the assessor cannot gain access, and property located in an extremely remote region. Was amended throughout the process to limit the type of technology used, when used, and how to notify property owners if digital image technology was used in their property assessment.

Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
SHB 2611	Annual property revaluations	H Rules 3C	Support	Assessors Association priority. Requires all counties to revalue real property annually by January 1, 2012. Created a \$10 million grant program for counties to use to purchase computer hardware, software, and training to convert to an annual revaluation cycle.
ESHB 2847	Weatherization assistance	H Rules 3C	Neutral	Exempts materials used to weatherize the residence of a low-income homeowner under the Washington Weatherization Assistance Program from sales and use taxes.
SHB 3120	Construction tax exemption	Governor Signed	Concerns with fiscal impact	Initially would have provided a sales and use tax exemption for green building construction. Was subsequently changed to a study on tax incentives to encourage green building.
SSB 6297	Prosecuting Attorney salaries	Governor Signed	Support	Association of Prosecuting Attorneys priority. Effective July 1, 2008, the state must contribute an amount equal to one-half of the salary of a Superior Court judge towards the salary for the county's elected prosecuting attorney. Upon receipt of the state's contribution, each county must continue to contribute an amount equal to or greater than the amount it contributed in 2008 towards the elected county prosecutor's salary.
SSB 6791	Treatment programs	Governor Signed	Support	Clarifies the uses of the 1/10th sales and use tax for chemical dependency or mental health treatment services to include treatment services, case management, and housing. Non-supplant provisions do not apply to lapsed federal funds.
SSB 6828	Aerospace industry	Governor Signed	Neutral	Expands tax incentives for the aerospace industry to those providing aerospace services.
SSB 6851	Inheritance/tax exemption	Governor Signed	Support	Allows a surviving spouse/domestic partner to obtain a real estate excise tax exemption at the time of inheritance by providing a certified copy of the death certificate and a signed affidavit from the spouse/domestic partner.
Law and Justice & Public Safety				
Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis

Bill Number	Topic	Governor Signed	Support	Description
HB 2176	Interpreter Services		Support	Administrative Office of the Courts (AOC) must reimburse the appointing authority for one-half the payment to the interpreter when an interpreter is appointed by a judicial officer in a court proceeding at public expense. Each court receiving reimbursement for interpreter costs must provide to the AOC a report that evaluates the need for, availability of, and the resources required to provide interpreters in court-mandated classes or programs.
HB 2436	Work release input	H Rules 3C	Neutral	Allows a crime victim to provide input regarding an offender's work release placement.
SHB 2439	Offender immigration status	H Rules 3C	Concerns	Department of Corrections must cooperate with Immigration and Customs Enforcement (ICE) in order to determine the immigration status of every offender. The Washington State Association of Sheriffs and Police Chiefs must give ICE access to the statewide electronic jail booking system.
SHB 2444	Offender internet info	H Rules 3C	Neutral	Required registered sex or kidnapping offenders to provide electronic mail address and the uniform resource locator of any personal Web site.
HB 2465 / SB 6193	Legal financial obligations	S Rules 3	Support	Washington Association of County Officials priority. Authorizes county clerks to issue and serve orders to withhold and deliver and notices of debt for the purpose of collecting past-due legal financial obligations. Likely to return in 2009.
EHB 2476	Tribal police officers	Governor Signed	Neutral	Tribal police officers are authorized to act as general authority Washington peace officers when the appropriate sovereign tribal nation meets specified requirements regarding certification, insurance liability, administration, and either: 1) enters into an interlocal agreement with the appropriate local government; or 2) failing such an agreement, submits to binding arbitration with the local government in order to reach such an agreement. The appropriate tribal government must submit proof of: 1) a tribal officer's required certification; 2) liability insurance to cover tortuous conduct of tribal officers; and 3) a waiver of the defense of sovereign immunity by the tribal nation and its insurance companies to the Office of Financial Management (OFM) for review and verification. Only when this information has been provided to OFM are the tribal police officers authorized to act as general authority Washington State Peace Officers.

2SHB 2505	Patrol vessel funding	H Rules R	Neutral	Required registered sex or kidnapping offenders to provide electronic mail address and the uniform resource locator of any personal Web site.
HB 2507	Higher education institutions	Governor Signed	Neutral	Requires the Washington State Patrol and WASPC to complete a needs analysis and fiscal impact study that must include an assessment of all public and independent colleges and universities.
HB 2518	Volunteer Medical Workers	H Rules 3C	Support	Allowed retired volunteer medical workers from other states, territories and countries to obtain a license if they previously held a comparable health profession license.
HB 2550	Emergency preparedness kits	H Rules 3C	Concerns	Requires the Department of General Administration to establish state standards for the purchasing and procurement of emergency preparedness kits.
HB 2637	Criminal case records	Governor Signed	Support	Requires an out-of-state recipient of a criminal warrant, subpoena, or court order compelling the production of records to comply with the process, generally within 20 days. Provides civil and criminal immunity for persons who respond to a criminal process and produces records. Requires an in-state recipient to comply with out-of-state criminal process if it appears valid on its face. Allows the records to be authenticated by the custodian without testimony, if the records are accompanied by the custodian's written declaration or certification of authenticity.
E2SHB 2712	Criminal street gangs	Governor Signed	Support	Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) to establish a gang grant program for local law enforcement agencies with the goal of targeting gang crime. Requires the WASPC to establish a grant program to support local graffiti and tagging abatement programs. Directs the Washington State Patrol to work with the WASPC to coordinate the use of an existing statewide database for tracking and accessing criminal street gangs. Creates new gang related crimes. Expands the list of illustrative aggravating factors in the Sentencing Reform Act to include any crime that is committed for the benefit of a criminal street gang. Requires community custody for gang members convicted of an offense involving a firearm. Authorizes special civil penalties and costs that may be recovered by a property owner from the person causing physical damage to the property.

2SHB 2713	DNA Identification	Governor Signed	Support	Expands the DNA identification system to include information from persons required to register as sex or kidnapping offenders to include information from persons convicted of certain gross misdemeanors and misdemeanors.
2SHB 2714	Sex/kidnapping offenders	Governor Signed	Support	Changes failure to register as a sex offender from a class C felony to a class B felony. Requires the Sec Offender Policy Board to study and make recommendations regarding sex offender registration and community notification.
HB 2719	Accurate sentences	Governor Signed	Neutral	Provides that a criminal history summary provided by the prosecutor is prima facie evidence of the existence and validity of the convictions listed therein. Provides that if a defendant fails to object to the prosecutor's version of his or her criminal history, the defendant is deemed to have acknowledged the prosecutor's version. Allows, in a re-sentencing hearing, all relevant evidence regarding criminal history, including evidence of offenses not included at the original sentencing. Reorganizes and makes non-substantive changes to the community custody statutes. Applies the community custody statutes retroactively to the extent it is constitutionally permissible.
HB 2728	Misdemeanor sex offenders	H Rules 3C	Neutral	Requires registration for persons convicted of misdemeanor or gross misdemeanor-level indecent Exposure with sexual motivation.
2SHB 2822	Family/juvenile court program	Governor Signed	Monitor	Creates a grant program, administered by the Administrative Office of the Courts, to improve family and juvenile courts. Requires courts, in order to be eligible for grants, to submit a local improvement plan to AOC that, at a minimum, provides for: (a) the assignment of a chief judge to the family and juvenile court for at least two years; (b) the implementation of one judicial team hearing all proceedings in a case involving one family; and (c) specialized training of judicial officers.

HB 3254	DUI accountability	Governor Signed/Partial Veto	Support	A person convicted of a DUI may apply to the Department of Licensing for a special ignition interlock license. A fund is established for indigent individuals to apply for a ignition interlock license to help with the installation and leasing on the device. A pilot project is established to study the effectiveness of the program. Governor vetoed section 18, which would have allowed a one time deferment for an individual convicted of a DUI but assessed to not have a substance abuse problem. Governor directs DSHS to research other alternatives.
E2SSB 5106	Animal emergency operations	S Rules 3	Concerns	Requires the Military Department, through the Emergency Management Division, to prepare, as part of the state comprehensive emergency management plan, animal emergency planning guidance for local jurisdictions. The plan must provide for the evacuation, transportation, and temporary sheltering of pets and service animals.
SSB 6328	Campus safety and security	Governor Signed	Neutral	Requires institutions of higher education to: (1) create emergency management and response plans; (2) develop agreements with local jurisdictions which delineate responsibilities and include the shared use of equipment and technology; (3) establish task forces to review safety planning processes; and (4) submit to the Higher Education Coordinating Board and State Board for Community and Technical Colleges respectively concerning: (a) a study assessing each institutions' ability to ensure the safety of students, faculty, and staff; and (b) a plan to maximize program effectiveness based on the findings of the self-study. Requires this plan must be updated every two years. Requires reports biennially on the efforts of each institution regarding campus safety.
ESSB 6442	Office of public defense	Governor Signed	Support	Repeals the sunset and termination clauses for the Office of Public Defense (OPD) and amends the OPD's administration, advisory committee, and other areas. Advisory committee is expanded to include a WSAC representative.
SB 6596	Sex Offender Policy Board	Governor Signed	Support	Requires the Sentencing Guidelines Commission to establish a Sex Offender Policy Board to research, review, and discuss issues relating to the assessment, treatment, and supervision of sex offenders. A representative of WSAC is included on the board.

SSB 6600	Juvenile truancy proceedings	S Rules 3	Monitor	Requires the court to appoint an attorney to represent a youth if a bench warrant is issued and a youth has failed to appear for a truancy hearing.
SB 6702	Offender treatment programs	S Rules X	Oppose	Courts may authorize county jails to convert jail confinement to a county supervised community option including the completion of a state-certified inpatient or intensive outpatient treatment program for offenders convicted of nonviolent and nonsex offenses with sentences of one year or less.
SSB 6842	Criminal offender provisions	S Rules X	Neutral	Made technical revisions to provisions relating to sentencing and supervision of criminal offenders. Incorporated into HB 2719.
SSB 6898	Criminal sentencing	S Rules 3	Neutral	The standard ranges in the sentencing grid are expanded. Gives sentencing judges a greater range within which to sentence offenders without having to make additional findings of fact.
SSB 6933	Evidence admissibility	S Failed 3rd	Support	Allows, in a criminal prosecution for a sex offense, evidence of a defendant's commission of any other conduct, whether charged or uncharged, to be admitted into evidence unless the probative value of the evidence is outweighed by the danger of unfair prejudice. Requires a prosecutor to disclose evidence intended to be offered under this rule at least 15 days before trial, or later as the court allows for good cause. Provides a list of factors the trial judge must consider in evaluating whether evidence offered under the rule should be excluded.
SB 6931	DUI emphasis patrol funding	Governor Signed	Monitor	SB 6931 placed an additional \$.42 surcharge on the sale of liquor that would have 50% of the monies raised go into chemical dependency treatment and 50% to fund DUI patrols. The bill was ruled to violate I-960 and needed majority of the Senate to pass.
Human Services				
Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
3SHB 1601	Children's health	H Approp	Neutral	Creates the Children's Environmental Health and Protection Advisory Council.

SHB 2487	Vulnerable adult protection	H Rules 3C	Neutral	Amends the alternative service standards and processes applicable to vulnerable adult protection orders. Requires the court clerk to forward a vulnerable adult protection order to law enforcement for entry into the Washington Crime Information Center System. Specifies that the court check the Judicial Information System for competing orders before issuing a vulnerable adult protection order. Died in Senate Rules. Likely to return in 2009.
SHB 2595	County veterans' assistance	H Rules 3C	Concerns with fiscal impact	Expands the definition of "veteran" for purposes of veterans' relief programs to include current members of the National Guard and Armed Forces Reserves who have been deployed for active duty.
ESHB 2626	Emergency eligibility	H Rules 3C	Neutral	Requires the Employment Security Department to study options for suspending the waiting period requirement for individuals who are unemployed because of an emergency or disaster.
SHB 2654	Mental health services	Governor Signed	Concerns	Directs the Department of Social and Health Services to adopt rules to authorize community service agencies to become Medicaid certified.
SB 2863 / SB 6448	Intensive behavior support	H Approp / S Rules 3	Support	Creates a program to provide services for children with developmental disabilities who exhibit intense behaviors.
HB 2900 / SB 6713	Early intervention services	H Approp/S Ways & Means	Support	Requires the department of Social and Health Services (DSHS) to contract with counties to provide early intervention services for children with developmental disabilities.
HB 2903	Access Coordinator	Governor Signed	Support	Requires the Administrative Office of the Courts to create the position of Court Access and Accommodations Coordinator to address access to courts by persons with disabilities.
HB 3078/2SSB 6736	Lifelong service program	H Approps/S Rules X	Concerns	Requires the Department of Social and Health Services (DSHS) to implement rules to enable working-age adults with developmental disabilities to pursue and maintain employment. Likely to return in 2009.
ESB 6357	Domestic violence service of process	Governor Signed	Neutral	Prohibits a court from requiring more than two attempts to personally serve a respondent with a domestic violence protection order. Requires notice of a modification hearing to be personally served on all parties. Prohibits a court from requiring more than two attempts to personally serve the non-moving party with notice of a hearing to modify a domestic violence protection order.

SSB 6404	Regional support networks	Governor Signed	Oppose	Establishes a process to replace a Regional Support Network that voluntarily terminates its contract or refuses to sign a contract with the Department of Social and Health Services to act as a Regional Support Network. Allows private entities to bid for an RSN, but the procurement must include a factor for non-profits include a scoring factor for proposals submitted by nonprofit entities. Once a decision is made to voluntarily terminate a contract, an entity is prohibited from responding to a procurement to serve as a regional support network for five years and an RSN must give 90 days notice of intent to terminate, but 180 days advance notice of any issue that might cause either party to cancel a contract.
SB 6421	Smoking cessation programs	Governor Signed	Neutral	Provides coverage for smoking cessation counseling services, including prescription and nonprescription drugs, for clients enrolled in the medical assistance and medical care services programs.
2SSB 6483	Local food production	Governor Signed	Support	Makes changes to state procurement policy to encourage and facilitate the purchase of Washington grown food by state agencies and institutions of higher education. Allows school boards to develop and implement procedures to increase the purchasing of Washington grown food. Requires the Department of Health to adopt rules to allow farms with farm stores to participate in the Women, Infant, and Children Nutrition Program. A priority bill for the environmental community.
SSB 6584	Medical assistance	S Ways & Means	Support	Requires DSHS to suspend, not terminate, medical assistance benefits for any person enrolled in medical assistance who becomes incarcerated in a correctional institution or IMD. Suspended medical benefits must be reinstated immediately upon the person's release, without requiring a new application.
SSB 6660	Area agencies	S Rules X	Oppose	Requires DSHS to establish discipline procedures against area agencies on aging in rule. Language in original bill required local jurisdictions to pay for the costs of the designation if DSHS determined that that programs and services do not comply with requirements.
Housing				Implications & Analysis

SHB 2576	Affordable housing	H Rules X	Support	Requires that a Growth Management Act comprehensive plan include specific provisions addressing land use needs with respect to "low-income housing" and "moderate-income housing." Creates statutory definitions for "low-income housing" and "moderate-income housing."
SHB 2604	Impact fee exemption	H Rules C	Support	Deletes a provision obligating local governments to pay impact fees from qualifying public funds upon exempting low-income housing or other broad public purpose development activities from fee requirements. Specifies that impact fee exemptions for low-income housing or development activities with broad public purposes may only be granted if the developer records a covenant prohibiting conversion of the property unless applicable impact fees are paid. Prohibits local governments from collecting mitigation fees under the State Environment Policy Act for low-income housing and other qualifying development activities in place of exempted impact fees.
2SHB 2683	Affordable housing for all	H Rules C	Concerns	Creates the Affordable Housing for All (AFHA) program with a goal to ensure a decent, appropriate, and affordable home in a healthy, safe environment for every very low-income household by 2020. Requires the Department of Community, Trade and Economic Development as well as all counties to create AHFA plans to accomplish the AHFA goal. Counties can opt-out of AHFA plans.
2ESHB 3133	Mobile home parks	H Rules 3C	Support	Requires landlords of manufactured/mobile home communities to give tenants additional notice of a change of land use to a use other than for mobile homes and provides for increased relocation assistance.
ESSB 5959	Homeless individuals/family	Governor Signed	Support	Creates the Transitional Housing Operating and Rent Program to assist homeless individuals and families, and individuals families at risk of homelessness, secure and retain housing through the provision of rental vouchers, case management and operating expenses. Repeals a statute that exempts landlords from liability for the actions of tenants who are offenders if the landlords comply with specific requirements.
Public & Environmental Health				Implications & Analysis

SHB 1605	Aquatic rehabilitation zone	H Rules 3C	Oppose	Requires cities and towns with a population of 31,000 residents or more, not located within a marine recovery area, to: (1) create and maintain an inventory of households and businesses that do not receive sanitary sewage services by January 1, 2009; and (2) institute a program to inspect all on-site sewage disposal systems within the city's or town's jurisdiction by January 1, 2012. Authorizes the local On-Site Sewer Inspection Reimbursement Account to reimburse cities and towns for some of the costs associated with the creation and maintenance of on-site sewage disposal system inventories.
SHB 1650	On-site sewage disposal sys	H Approp	Support	Clarifies the civil penalty provisions for on-site sewage disposal systems administered by local health jurisdictions
SHB 2522	Sewage disposal systems	H Rules 3C	Support	providing safe collection and disposal of unwanted drugs from residential sources through a producer managed and funded product stewardship program
E2SHB 2817	Meth contamination	Governor Signed	Support	Provides for decontamination, demolition, or disposal of vehicles and vessels contaminated with hazardous chemicals and assigns responsibility. Requires the Department of Licensing to place a notice on a contaminated vehicle or vessel title and a second notice after decontamination.
SHB 3031	Sewer/water utilities	H Rules X	Oppose	Reduces the authority of the Department of Health and the State Board of Health with regard to small on-site sewage disposal systems.
ESHB 3160	Nutrition information	H Rules 3C	Oppose	Establishes a legislative task force on nutritional information disclosure. Enacts a moratorium on local boards of health and health districts from regulating mandating menu labeling or nutritional information disclosure.
2SHB 3227	Hood Canal water quality	H Rules 3C	Support	County legislative authorities may impose additional local retail sales and use taxes to raise revenue to implement local water quality and water quantity projects. The rate of the additional tax must not exceed 0.4% in counties with less than 500,000 persons and 0.2% in counties with 500,000 or more persons. The tax must be deducted from those amounts already required to be collected and paid to the state under state retail sales and use tax+E95.

E2SSB 6502	Mercury release	S Rules 3	Oppose	Restaurants with 25 or more locations in the country, under the same trade name, must provide nutrition information in one or more methods: on the menu or in writing at the point of sale, on standard food item packaging, at the counter, table tent, or tray liner, on a poster, brochure, or in some form of electronic medium. Nutritional information includes total calories, grams of trans and saturated fat, carbohydrates, and milligrams of sodium. Local boards of health or health districts are preempted from adopting an ordinance, rule, policy, regulation or permit requirement regarding mandatory menu labeling or nutritional information disclosure at restaurants.
SSB 6620	Biological remediation tech	S Rules 3	Oppose	Any new or retrofitted on-site sewage disposal system installed within ARZ One after July 1, 2009, is prohibited from discharging more than 20 milligrams per liter of nitrogen to ground or surface water. The Departments of Health and Ecology must report to the Legislature on the impacts of removing phosphates from the discharge of on-site sewage disposal systems and wastewater treatment systems within ARZ One. In addition, the departments must report within five years on the effectiveness of the requirement to limit nitrogen for on-site sewage systems, a review of the costs to meet the requirements, and provide recommendations for any necessary changes to the nitrogen standard.
SB 6636	Water-sewer dist contracts	S Rules X	Support	<ul style="list-style-type: none"> • Requires the recycling of end-of-life mercury-added general purpose lamps by January 1, 2010, for all state-funded public agency facilities and by January 1, 2011, for all commercial, industrial, and retail facilities and office buildings. • Prohibits the sale or purchase of bulk mercury, beginning June 30, 2009. • Requires the Department of Ecology (DOE) to study feasibility of national repository, and to participate in mercury forums to advocate reduction of global emissions and permanent isolation of mercury. • Requires the DOE to report findings and recommendations for implementing and financing a recycling program for fluorescent lamps to the Legislature by December 1, 2008.

Agriculture, Land Use & Resources

Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
ESHB 1727	Growth management planning	H Rules 3C	Concerns	Establishes new requirements for the land use and housing elements of comprehensive plans adopted under the Growth Management Act. WSAC opposed the bill's requirement that counties adopt city development regulations for unincorporated territory surrounded by incorporated territory.
ESHB 2438	Cougar hunting pilot project	Governor Signed	Support	Extends for three years the NE Washington pilot project that allows for the hunting of cougars with the aid of hounds.
SHB 2477	Groundwater	H Approp		Directs the Department of Ecology (DOE) to conduct two pilot groundwater assessment programs, and a data gap analysis. Requires the DOE to improve their ambient groundwater monitoring and assessment program.
2SHB 2514	Orca whale protection	Governor Signed	Support	Prohibits people and their vessels from being within 300 feet of any southern Orca whale, or feeding any southern Orca whale without an express exemption. Requires the State Parks and Recreation Commission and the Department of Fish and Wildlife to disseminate information about the prohibitions, exemptions, and other regulations regarding southern Orca whales. Priority bill of Coastal Counties.
SHB 2525	Mitigating Flood Damage	Governor Signed	Support	State of Emergency: The instances when the WDFW is able to issue emergency oral approvals of HPA is expanded to include instances when the Governor declares a state of emergency due to flooding. Chronic Flood Dangers: A county may declare that a chronic danger exists for a particular property not located on a marine shoreline if that property has experienced at least two consecutive years of flooding or erosion that threatens a property or its infrastructure. If a chronic danger is declared, then the WDFW must issue an approval under the HPA program to remove obstructions, restore banks and roads, repair structures, and protect property and fish resources.

SHB 2535	Shoreline management act	H Rules R	Support	Specifies that local governments may adopt moratoria or other interim official controls as necessary and appropriate to implement the Shoreline Management Act (SMA). Establishes public hearing, notification, and other requirements that must be met by local governments choosing to adopt moratoria or interim controls. Specifies that moratoria or interim controls may be effective for up to six months, but allows the local government to renew the moratoria if delineated requirements are met.
HB 2540	Hunters and fishers	Governor Signed	Support	Makes permanent the advisory committee to the Fish and Wildlife Commission that represents the interests of hunters and fishers with disabilities.
2SHB 2777	Small community grant program	H Rules R	Support	Establishes a small communities infrastructure planning grant program (grant program) to be administered by the Department of Community, Trade and Economic Development. Counties with a population of 15,000 or less were eligible for grants.
E2SHB 2815	Greenhouse gas emissions	Governor Signed	Monitor	Directs the Department of Ecology (DOE) to submit a greenhouse gas reduction plan to the Legislature to limit statewide greenhouse gas emissions. Authorizes the DOE to adopt rules requiring a reporting system to monitor greenhouse gas emissions. Authorizes the DOE to develop a design for a regional multi-sector market-based system to limit and reduce greenhouse gas emissions. Creates a green industries job training account to train and transition workers to clean economy industry jobs. Directs the Department of Transportation to provide recommendations to reduce annual per capita vehicle miles traveled. A priority bill for the environmental community.
ba	Urban forestry	Governor Signed/Partial Veto	Support	Provides a mechanism to encourage local governments to develop and implement management plans and ordinances related to urban forestry. Creates a new grant program for local governments' urban forestry programs. Provides preference in certain grant programs for local governments with qualifying urban forestry programs. Requires the DNR to develop and conduct prioritized inventories and assessments of community and urban forests. Governor vetoed "overly prescriptive and detailed" intent section. Also directs DNR to first fund technical assistance, then implementation plan, and lastly grants for pilot programs.

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SHB 2893	Forest practices board	Governor Signed	Support	Authorizes a representative of a timber products union to sit as a member on the Forest Practices Board of Washington.
SHB 2981	Surface mines	H Rules R	Oppose	Creates a joint select committee of legislators to study options for moving toward a more uniform system of surface mining regulations that bases regulatory decisions on actual environmental harm and not on the status of the operation's ownership or the size of the operation.
E2SHB 3186	Beach management districts	Governor Signed/Partial Veto	Support	Authorizes the creation of beach management districts for the control and removal of aquatic plants and vegetation. Restricts the control and removal of native aquatic plants and vegetation to beaches or near shore areas meeting specified requirements. Authorizes the Department of Ecology to provide technical assistance to community groups and county and city legislative authorities requesting assistance with the development of beach management programs. Governor vetoed an unnecessary null and void clause in section 30. Governor also vetoed section 29 because it directed Department of Ecology to provide technical assistance consistent with Puget Sound Partnership; however, Partnership action agenda does not exist yet.
2SSB 6227	Coast marine resources	Governor Signed	Support	The outer coast marine resource committee (MRC) program is created to support outer coast MRCs. The Department of Fish & Wildlife must: (1) provide each outer coast MRC with a coordinator to support the committee's work; and (2) distribute grants to outer coast MRCs to support projects that benefit coastal marine resources. MRC membership must include representation from local residents. In lieu of creating a new entity to serve as an outer coast or Puget Sound MRC, a county legislative authority may designate a salmon recovery lead entity organization to also serve as the MRC. However, a county may only make this designation upon consent of the lead entity organization. A priority bill of the Coastal Counties Caucus.

Bill Number	Topic	Action	Monitor	Description
ESSB 6308	Climate change	S Rules 3	Monitor	Requires the Department of Ecology to report to the Governor and to the Legislature with recommendations for creating a comprehensive climate change research, preparation, and adaptation program. Creates the Office of Washington State Climatologist within the University of Washington. Requires the state climatologist to supply critical information for drought preparedness and extreme weather conditions.
SSB 6309	Gas vehicle emissions	Governor Signed	Neutral	Requires all new passenger cars, medium duty passenger vehicles, and light duty trucks beginning in model year 2010 to display a label that discloses comparative greenhouse gas emissions for that vehicle. Requires the Department of Ecology to provide a status report to the Legislature before December 1, 2008.
ESSB 6348	Water rights transfers	S Rules 3	Support	Requires the Department of Ecology to submit a report and policy recommendations to the Legislature on the impacts of interwatershed transfers.
ESSB 6580	Climate change impacts	Governor Signed/Partial Veto		Requires the Department of Community, Trade and Economic Development (DCTED) to develop and provide counties and cities with advisory climate change response methodologies, a computer modeling program, and estimates of greenhouse gas emission reductions resulting from specific measures. Establishes a local government global warming mitigation and adaptation program. Prohibits Growth Management Hearings Boards from hearing petitions alleging non-compliance with the mitigation and adaptation program. Requires the DCTED to provide a climate change report to the Governor and the Legislature by December 1, 2008. Governor vetoed an emergency clause and three null and void clauses.
SSB 6607	Shellfish protection	Governor Signed	Concerns	Removes the National Pollutant Discharge Elimination System permit exemption for shellfish protection district assessments, fees, and charges, and limits the assessments that may be levied against dairies with certified dairy nutrient management plans to \$500.

SSB 6609	Agricultural structures	S Rules 3	Oppose	The dollar amount of a permit fee for a specialty agricultural building cannot exceed \$75. Specialty agricultural structures are structures that are designed and constructed to house farm equipment, hay, grain, poultry, livestock, and other horticultural products.
SSB 6668	Annexation of territory	S Rules X	Oppose	If zoning of an unincorporated territory is changed by the county to allow for residential development or more dense residential development, the territory is automatically annexed to the surrounding city and the city must zone the annexed territory to allow the minimum of six dwelling units per acre. The act only applies to an unincorporated territory, which has no residents, that is located in a home charter rule county with a population of over one million; is entirely surrounded by an incorporated city; and is not part of the UGA of the surrounding city.
SSB 6727	Sufficient land/densities	S Rules X	Concerns	Changes are made to the land use element of comprehensive plans to require the designation of a sufficient quantity of land necessary for residential, commercial, and industrial uses.
SSB 6784	WA vesting laws	S Rules X	Oppose	When a comprehensive plan, development regulation or amendment is pending review and evaluation, and 18 months has passed, the project will vest to those laws in effect when an application is complete. When a petition for review is awaiting a Growth Management Hearings Boards' decision development rights affected by a comprehensive plan or development regulation will not vest until a final decision is issued. For large development projects, vesting is when the permit application is approved or denied. Authorizes the legislative review authority discretion to allow nonprofit affordable housing organizations or housing authorities to vest earlier.
E2SSB 6874	Regarding Columbia River water delivery	Governor Signed	Support	Establishes a special State account to compensate tribes and local governments of NE Washington for drawdown of Lake Roosevelt which will provide additional water for growing communities downriver, agricultural irrigation including recharge of the aquifer in the Odessa Sub-basin and instream flows for fish. A study was included in the bill to examine the impact of basin water transfers and recommend suitable mitigation.
Labor & Pensions				

Bill Number	Bill Title	Bill Status	WSAC Position	Implications & Analysis
E2SHB 3139	Industrial insurance orders	Governor Signed	Oppose	Requires the payment of worker compensation benefits while the validity of an employee's claim is pending on appeal. Creates an employee-paid fund to reimburse self-insured employers if a claim is ultimately denied.
SHB 3305 / SSB 6820	Family leave insurance	H Rules C/S Rules X	Neutral	Implements administrative recommendations of the Joint Taskforce on Family Leave. Direct the Employment Security Department to administer the family leave insurance program. Specifies that the job protection provisions must be enforced by the Department of Labor and Industries. Modifies the family leave insurance program with respect to government efficiencies, unemployment compensation, and other task force recommendations. Dedicates state funds in equal portions for 1) local jurisdictions to support criminal justice services, information and assistance to parents and families dealing with at-risk or runaway youth, or other public safety purposes and 2) future LEOFF Plan 2 benefits (adopted by the Legislature and actuarially fully funded by the new LEOFF Plan 2 account). Funds contingent upon general state revenues increasing more than 5%). Distributions begin in 2012 with \$5 million deposited for the biennium and increased to \$50 million by 2017.
ESSB 6573	Public safety	Governor Signed	Support	
Transportation & Public Works				
E2SHB 1773	Imposition of tolls	Governor Signed	Neutral	Designates the Legislature as the only entity with the authority to impose tolls on an eligible toll facility, unless that authority is otherwise delegated. Requires all revenue from an eligible toll facility to be used only to improve, preserve, maintain, manage or operate the eligible toll facility on or in which it is collected. Creates guidelines and requirements that the Washington State Transportation Commission must follow in determining toll rates. Requires any other entities seeking to impose tolls to first seek approval from the Legislature for tolls on state routes and from the WSTC for tolls or changes in tolls that impact state routes. Requires WSDOT to use and administer toll collection systems that are simple, unified, interoperable, and avoid the use of toll booths and to set standards for all toll facilities in the state.

	Port district ferry service	Governor Signed	Neutral	Expands eligibility for the Passenger Only Ferry Grant Program to include passenger-only ferry systems operated by port districts. Adds port districts to the passenger-only ferry service providers with which the Washington State Ferries system must collaborate for terminal operations. Expands the areas in which port districts may offer ferry service to include the Puget Sound.
HB 2730			Neutral	
EHB 2985	Local public works	H Rules 3C	Support	County legislative authorities may establish local public works assistance funds in order to provide loans to cities and other local governments to pay for public works projects located wholly or partially within the county.
ESHB 3096	State route number 520	Governor Signed	Neutral	Requires the inclusion of several assumptions regarding revenue sources and savings in the finance plan for the State Route 520 Bridge Replacement and HOV project, including a sales and use tax deferral on construction costs.
HB 3262 / SB 6885	Driving record abstracts	H Rules C/Governor Signed	Support	Washington Risk Pool priority. Allows state colleges, universities and agencies for employment and risk management purposes, and units of local government that are authorized to self-insure, to receive driving record abstracts.
SHB 3264	Public works projects	H Rules R	Oppose	Revises the definition of public works projects within the Public Works Assistance Account (PWAA) program by adding legislatively-identified categories of infrastructure. Revises the Public Works Board's (PWB) funding requirements and changes the factors that must be considered when prioritizing projects. Eliminates the requirement for legislative approval of the PWB list of construction projects. Although the bill did not pass, the capital budget includes a budget proviso for the Office of Financial Management to develop a process to prioritize infrastructure funding.

	Public works/port districts	S Rules 3	Concerns	<p>Removes the exemption for port districts from the notification requirements of the small works roster contract procedures. Adds other construction-related services to the services that governmental agencies must publicly announce requirements for and negotiate contracts for on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices. Other construction-related services are defined as consultant services provided by any person, other than as an employee of the agency, in connection with a furtherance of any public work, including project management, construction supervision, construction management, land surveying, environmental services, technical testing, and inspection services. Public work consultant services are defined as architectural, engineering, and other construction-related services provided by a consultant.</p>
SSB 6347	Day labor projects	S Rules 3	Support	<p>For the purpose of calculating road construction day labor, county's are separated into those with a population of less than 50,000 but more than 22,000 and those with a population that equals or exceeds 50,000. Counties with a population of less than 22,000 are exempt from construction day labor use restrictions.</p>
ESSB 6771	Transportation investment	S Rules 3	Neutral	<p>Declares the Legislature's intent to determine whether regional financing of state-owned transportation projects and facilities can be successfully implemented by regional transportation investment districts (RTID). Directs the Joint Transportation Committee to study regional financing of state owned facilities by RTIDs, and to submit a report by December 1, 2008.</p>
SSB 6808	Bridge owner requirements	S Rules X	Oppose	<p>Cities and counties that own bridges with a sufficiency rating of less than ten must, within six months of the most recent sufficiency rating report, either begin to repair the bridge to increase the bridge's rating to over 80, or adopt a finance plan to fully fund the repair or replacement of the bridge. If a jurisdiction does not comply the State Treasurer must withhold a portion of state motor vehicle fuel taxes to which the city or county would otherwise be entitled.</p>