



## King County

### **Dow Constantine**

King County Executive

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April 1, 2010

The Honorable Bob Ferguson  
Chair, King County Council  
Room 1200  
COURTHOUSE

Dear Councilmember Ferguson:

I am writing to notify you of the adoption of a public rule related to placement of large wood in county rivers pursuant to Ordinance 16581, and to alert you to significant policy and implementation issues raised through comments on the public rule that could not be fully addressed while complying with Ordinance 16581. Over the coming months, as the rule is implemented, the Department of Natural Resources and Parks (DNRP) will gather information on implementation impacts of the public rule, I would like to maintain an open dialogue with both the council and interested parties regarding approaches for protecting public safety while meeting objectives for flood hazard reduction and habitat restoration projects.

Pursuant to King County Council Ordinance 16581, DNRP has developed and adopted a public rule defining procedures that will be followed to ensure adequate consideration of public safety when placing large wood in King County rivers. The adopted rule reflects the specific direction in Ordinance 16581 that "procedures and design options affording the greatest safety of river users shall be of primary consideration . . ."

DNRP issued a draft public rule on January 4, 2010, followed by a 45-day public comment period. The department received comments from fifty-nine individuals and organizations via written submissions as well as oral testimony at two public hearings held in late January. The majority 43 of the comments reflected concern about the policy direction of Ordinance 16581 and the implications of proposed procedures for the future of salmon recovery and flood protection efforts. Respondents specifically questioned whether the consequences of the new procedures have been adequately evaluated. Moreover, many

The Honorable Bob Ferguson

April 1, 2010

Page 2

respondents questioned whether sufficient evidence of a valid safety concern has been demonstrated to justify a costly and time-consuming procedure that may reduce the effectiveness of flood protection and habitat-focused capital projects, while providing little or no benefit to safety.

DNRP also received comments from six respondents who believe that the proposal does not go far enough to address safety concerns in a manner consistent with the ordinance. The respondents argued that the rule should include consideration of other aspects of public safety, such as flooding; should have included prescriptive language about where wood placement is or is not appropriate; and should have stated clearly that recreational safety supersedes other project goals as a primary consideration. Of the remaining respondents, only three supported the proposal as-is. Another three felt that they could support it if certain specific issues were adequately addressed. A complete set of the final Public Rule, public comments received on the draft, and a summary of responses are attached.

The final rule was revised to cover all rivers and streams, address broader public safety concerns, clarify primary consideration to safety, clarify public input opportunities early in the design process, and streamline the review procedures. However, the department concluded that it could not fully address the majority of the comments about balancing considerations for safety and habitat without conflicting with the original direction in Ordinance 16581.

King County is faced with multiple mandates and responsibilities in protecting public safety, reducing flooding, and conserving habitat in our river systems. These interests are not necessarily mutually exclusive, and each proposed action brings its own set of objectives, physical constraints, and mandates. Over the next several months, DNRP will gather information on the nature and extent of design changes resulting from the review requirements outlined in the rule, as well as the practical impacts on project schedule and feasibility. Next fall, following the construction season, we will report to the council and interested stakeholders on implementation impacts, and outline any proposed policy or rule adjustments, as appropriate.

The Honorable Bob Ferguson  
April 1, 2010  
Page 3

I hope that with more practical experience, and an open dialogue, we can chart a path that addresses safety concerns while enabling important flood hazard reduction and habitat projects to move forward.

Sincerely,



Dow Constantine  
King County Executive

Enclosures

cc: King County Councilmembers  
ATTN: Tom Bristow, Chief of Staff  
Anne Noris, Clerk of the Council  
Fred Jarrett, Deputy County Executive, Executive Office (EO)  
Rhonda Berry, Assistant Deputy County Executive, EO  
Bob Burns, Interim Director, Department of Natural Resources and Parks (DNRP)  
Mark Isaacson, Director, Water and Land Resources Division, DNRP  
Joe Rochelle, Senior Deputy Prosecuting Attorney, Civil Division  
All responders to the public rule during the comment period