

From: Stewart Mhyre
To: [Lynne Danielson](#)
Subject: Comments on MOU
Date: Tuesday, November 21, 2017 3:07:51 PM

Dear Lynne:

Thank you for your recent email setting forth Olympic View Water and Sewer District's ("Olympic") proposed program points for an MOU between Olympic and the Edmonds School District ("District"). You asked me to respond to Olympic's proposed testing requirements, and to let you know if the District sees this proposal as a basis for moving forward with an MOU.

Based upon our review and understanding of your proposal, it appears that there are areas of substantial overlap between what Olympic would like to see and what the Washington State Department of Ecology ("Ecology") requires. This includes installing multiple monitoring wells, testing for a broad spectrum of pollutants that includes those relevant to drinking water standards, continuing testing for several years, and submitting a maintenance and operations plan. As you know, Ecology is the agency with jurisdiction to regulate and approve underground injection control program ("UIC") wells. For this reason, the monitoring and testing requirements that the District will adopt and follow for these wells will be whatever Ecology requires and approves. The District is willing to conduct the monitoring and testing of its wells in a manner that is transparent to Olympic, and the District is willing to share any technical information that we gather in so doing with Olympic. These are things that I think we can agree upon.

As previously advised, the District is also willing to consider voluntary augmentation of Ecology's monitoring and testing requirements in the context of an MOU with Olympic. This might include testing for additional potential pollutants and extending the testing period from the Ecology requirement of five years. This is a discussion (at a technical level) that should continue, and the District is willing to bring its experts to the table for further discussion. However, matters such as equipment specifications or operational protocols are matters that must be left to the District's discretion, subject to the regulation and oversight of Ecology. In response to OVWSD concerns, the District has already added a number of features to its system design that exceed Ecology requirements, including installing an oil/water separator and shut-off valves.

You also mentioned that several sections of your proposal needed work and that your proposal had not been reviewed by your Board or by your legal counsel. I have to secure these approvals on my on my end as well, but there is one item that I am sure would not be approved by either our Board or by our legal counsel. Specifically, item 13, your proposal and conditions for the District to establish a fund for future treatment plant upgrades or other mitigation, is not acceptable. The District cannot fund system wide improvements for your customers, nor is there any basis to presume or conclude that the District's proposed wells will contaminate the aquifer. In fact, we think what we are proposing will be beneficial to water quality. The City of Redmond uses a shallow aquifer as a major source of drinking water and both allows and encourages stormwater wells for large portions of its watershed. They view stormwater wells as a benefit to their drinking water supply because the wells restore the aquifer with clean water.

Lynne, we have now gone back and forth on these issues a few times, and perhaps we are both feeling a bit frustrated. Perhaps we should enlist the services of a mediator, and see if a mediator can help us find common ground on these issues. The District is every bit as committed to preserving water quality as Olympic is. We are also not reluctant to hold our proposed wells out to the scrutiny of Ecology and the Department of Health, understanding that DOH has no jurisdiction over these wells. We need to bring closure to these discussions and perhaps mediation will help.

--

Stewart Mhyre, MBA, CSBA
Executive Director, Business & Operations
Edmonds School District



Subject:
Date:



RE: Comments on MOU
Thursday, December 14, 2017 2:22:00 PM

Dear Stewart,

I would like to apologize for taking so long to respond to this email. I think there may have been some confusion about our proposal. We understand that the Edmonds School District (ESD) will be following Department of Ecology (DOE) guidelines and will be meeting DOE requirements. I appreciate this because there is some overlap between DOE and Olympic View testing requirements and will therefore save the District maintenance costs. The list of testing requirements that I sent to you, was a proposal that would meet Olympic View requirements for providing water to the new school.

Would it be possible for the ESD to provide us a list of the testing requirements set forth by the DOE and all the test results to date with the wells that have been drilled?

Would it be possible for the ESD to address the unique aspects of our testing proposal, not included within DOE requirements and regulations? I am not clear if your prior email rejected any testing beyond DOE requirements.

I am glad that the ESD agrees with the importance of maintaining quality raw water for treatment at Deer Creek, therefore providing a safe drinking water source for current and future customers of Olympic View, which includes several schools. With that position in mind, can you please tell me how the school District is planning on addressing the unlikely occurrence of contamination in the water supply that feeds Deer Creek? Along similar lines, if DOE requires monitoring for up to five years, is ESD rejecting any monitoring beyond five years? If so, that is concerning. Our hydrogeologist indicates that contamination originating at Madrona School may take 5-10 years to show up at Deer Creek. Ceasing monitoring and testing after five years is ill advised. It would be in ESD's best interests to know for a full 10-year window if any contamination in Deer Creek is traceable to UIC wells at Madrona. This relatively modest investment in extended testing would give assurance and comfort to ESD, Olympic View and all those who rely on the Deer Creek watershed for drinking water.

Your email makes several references to the City of Redmond as an area that promotes the use of deep UIC wells to augment their water supply. The City of Redmond has the right to deny, modify, inspect and specify treatment processes for UIC wells. Olympic View does not have that right, it lies with the City of Edmonds, Snohomish County and the Town of Woodway. Would the ESD support changes in the respective governing entities Storm Water Management Plans that would allow Olympic View the right to deny, modify, inspect or specify treatment process for UIC wells within the Source Water Protection Area?

I appreciate the suggestion of mediation, but whomever we selected as a mediator would have an immensely difficult task of understanding the hydrogeology, the various regulations and the many

complexities of this situation. My concern is that the mediator would simply repeat each side's current talking points and positions to each other. Perhaps we have had enough of that already. This situation cries out for some creative thinking, alternative strategies and yes, a mutual spirit of compromise. In that spirit, and just for purposes of discussion, let's table discussion of point #13 from my prior proposal for the time being, which appears to be a deal breaker for both sides. Instead, let's focus on what we can provisionally agree upon with respect to testing and monitoring, beyond what ESD would need to do in any event to satisfy DOE.

I hope we can get the technical portion addressed in the near future and your willingness to work on this, or at least let me know who will be defining this, would be great.

I look forward to hearing from you.

Regards,

Lynne A. Danielson, General Manager
Olympic View Water and Sewer District
8128 228th Street SW
Edmonds, WA 98026-8449
p: 425.774.7769 | f: 425.670.1856

From: Stewart Mhyre [mailto:mhyres@edmonds.wednet.edu]
Sent: Tuesday, November 21, 2017 3:08 PM
To: Lynne Danielson <Lynned@ovwater.com>
Subject: Comments on MOU

Dear Lynne:

Thank you for your recent email setting forth Olympic View Water and Sewer District's ("Olympic") proposed program points for an MOU between Olympic and the Edmonds School District ("District"). You asked me to respond to Olympic's proposed testing requirements, and to let you know if the District sees this proposal as a basis for moving forward with an MOU.

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You also mentioned that several sections of your proposal needed work and that your proposal had not been reviewed by your Board or by your legal counsel. I have to secure these approvals on my end as well, but there is one item that I am sure would not be approved by either our Board or by our legal counsel. Specifically, item 13, your proposal and conditions for the District to establish a fund for future treatment plant upgrades or other mitigation, is not acceptable. The District cannot fund system wide improvements for your customers, nor is there any basis to presume or conclude that the District's proposed wells will contaminate the aquifer. In fact, we think what we are proposing will be beneficial to water quality. The City of Redmond uses a shallow aquifer as a major source of drinking water and both allows and encourages stormwater wells for large portions of its watershed. They view stormwater wells as a benefit to their drinking water supply because the wells restore the aquifer with clean water.

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--

Stewart Mhyre, MBA, CSBA
Executive Director, Business & Operations
Edmonds School District



Subject:
Date:



RE: Madrona Storm Water
Tuesday, January 30, 2018 2:18:00 PM

Dear Stewart,

Thank you for your response.

First, is there a way I can get a copy of your monitoring plan proposal. We apparently do not have it and it might help when it comes evaluating ESD plans with what we would be looking for.

I agree that the technical experts should be the ones to determine if and how the testing will proceed. I do have concerns about bringing our experts together again. Historically when we did this, we did not seem to get very far. I am not sure how much further we would get if we did the same thing again. Maybe it would be possible to bring in a third party expert to evaluate the proposal and maybe offer advice on a middle ground as opposed to mediation. Looking at our proposed testing list, there don't appear to be very many differences. If the "third party" expert concept is a possibility, we can each submit names and select from the list a mutually agreed upon party.

The areas of concern will remain that until the actual monitoring, testing and reporting issues are settled.

I would also like to discuss setting up a joint meeting between the School Board and the District Board of Commissioners in the near future so that they may discuss the public aspect of this project.

Thank you,

Lynne A. Danielson, General Manager
Olympic View Water and Sewer District
8128 228th Street SW
Edmonds, WA 98026-8449
p: 425.774.7769 | f: 425.670.1856

From: Stewart Mhyre [mailto:mhyres@edmonds.wednet.edu]
Sent: Friday, January 26, 2018 2:40 PM
To: Lynne Danielson <Lynned@ovwater.com>
Subject: Madrona Storm Water

Dear Lynne:

Thank you for your email of December 14 concerning the Madrona school project and the proposed MOU between the Olympic View Water & Sewer District and the Edmonds School District. We are making progress. I wanted to follow up on the specific questions that you raised in your email and to suggest

some further steps that I hope will bring us closer to an agreement.

You asked for a list of the testing requirements that the Department of Ecology requires and for copies of the test results (to date) associated with the wells that have already been drilled. The stormwater codes and guidance for this project include WAC 173-218 (Ecology's Underground Injection Control Program), the Stormwater Code Supplement to Edmonds Community Development Code (Chapter 18.30), Ecology's Guidance document for UIC Wells that Manage Stormwater, and Ecology's Stormwater Management Manual for Western Washington. Our monitoring plan exceeds these minimum regulatory requirements. The monitoring plan submitted to Ecology includes all of the following sampling analytes:

- Field parameters (pH, specific conductance, dissolved oxygen, temperature, turbidity)
- Primary and secondary drinking water inorganic chemical and physical characteristics listed in Tables 5 and 6 of WAC 246-290-310 (with the exception of asbestos): This includes total metals and other chemicals and physical characteristics (Sb, As, Ba, Be, Cd, Cr, Cu, Cyanide, F, Pb, Hg, Ni, Nitrate (as N), Nitrite (as N), Se, Na, TI, Cl, Fe, Mn, Ag, Sulfate, Zn, Color, Specific Conductance, and TDS).
- Petroleum hydrocarbon-related analytes (diesel, oil, and gasoline-range organics, BTEX)
- PAHs
- Pesticides
- Herbicides
- Total Phosphorus
- Coliform, PCBs, and bis (2-ethylhexyl) phthalate

These testing requirements were determined, in part, in response to comments and concerns expressed by the Water District. The first series of water quality samples was taken in mid-December and are currently being analyzed. We expect to have these results in the near future and will provide this information to you when it is available. We appreciate your concerns and continue to approach this matter in the spirit of cooperation. But we also remain committed to following the recommendation of our experts and the Department of Ecology with respect to these wells and any water quality concerns.

You asked if it would be possible to address the unique aspects of the Water District's proposed testing protocols "to the extent it is not included within DOE requirements and regulations." Frankly, this is an area where we are still struggling a bit to understand what it is that you are asking for and why. I hope that you agree that these are issues best left to the experts. As a means to close this gap, we are willing to again invite your experts to meet with our experts and discuss what—if anything—needs to be added to the current list of sampling analytes. If there is consensus among the experts that changes are needed, we will modify our sampling protocol accordingly. However, if there are aspects of your proposal that our experts reject, we will ask our experts to explain their conclusions and provide you with a copy of this explanation.

You have asked about the School District's willingness to consider modification of frequency and duration of sampling and testing. The current schedule for sampling and testing is:

- 8 background samples, collected over one year, starting 12-19-2017, full suite of analyses to establish baseline conditions.
- 8 quarterly samples, collected over 2 years, starting about 3 months after the dry wells are online, full suite of analyses. Only exceptions, per Ecology, is that PCBs and bis will be included for the first 4 quarterly events, then only annually thereafter.
- Continue sampling annually for 3 more years (in December/January timeframe) for the full suite of analytes, for a total of 5 years of sampling after bringing the infiltration system online.
- Additional annual sampling may be required, at the discretion of Ecology.

In the spirit of cooperation, we are willing to consider an extension of the period of testing (beyond 5 years), with two important qualifications. First, the sampling analytes for any additional testing would need to be determined and agreed upon. Second, the frequency and duration of any additional testing would need to be based on a credible risk assessment, and preferably, by reference to some comparable situations where such extended testing has been required. These are also issues best left to the experts and either our experts reach a consensus or we end up with some sort of compromise. Again, I am willing to agree to a process, but not a predetermined

outcome. We must be able to justify anything more than what Ecology has required and what our experts have recommended to our Board of Directors, to the State Auditor, and ultimately to our constituents as a prudent expenditure of School District resources.

You asked how the School District would address the “unlikely occurrence of contamination in the water supply that feeds Deer Creek.” If that unlikely occurrence was a consequence of actions taken by the District, for which we were legally liable, we would be held to whatever standard that the law provides, in the very same manner as anyone else in your service area.

Finally, you asked if the School District would support changes in the respective governing entities Storm Water Management Plans that would allow Olympic View the right to deny, modify, inspect or specify treatment process for UIC wells within the Source Water Protection Area? Candidly, these are not matters in which the School District normally takes a position—we are regulated by whatever agency or agency has jurisdiction and pursuant to whatever codes apply. Were the Water District to seek changes in the existing regulatory framework so as to authorize the Water District to regulate UIC wells, I think it is unlikely that the School District would either support or oppose this effort.

You also mentioned that you did not think mediation was well suited for our current situation, due in large part to the difficult task of understanding the hydrogeology, the various regulations and the many complexities of this situation. Your points are well taken, but I would like to keep mediation on the table as an option. Mediation is used as a tool to resolve disputes in a number of complex situations. A good mediator need not be a subject matter expert in all cases. If you are willing to keep this option open, I am willing to do some more homework and identify potential mediators that might be the right fit for this situation and who could help us close on the terms and conditions of an MOU. Please let me know if you are willing to consider this further.

Next steps, if you agree, is to reconvene our experts for a discussion of sampling analytes and the frequency and duration of testing. Consensus among our experts is possible, but we also have to anticipate that there will still be areas of disagreement, and you and I will probably be left with the task of trying to find any “middle ground.” I am willing to take one more crack at this, and if you are of the same mind, please let me know. Thank you.

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Stewart Mhyre, MBA, CSBA
Executive Director, Business & Operations
Edmonds School District



Subject:
Date:



RE: Madrona
Thursday, March 8, 2018 10:31:00 AM

Mr. Mhyre,

I did receive your email, our consultant and DOH are reviewing the proposal. The initial review indicates the school district has decided to follow only DOE regulations and did not include any of the additional testing, monitoring sites, safeguards or extended sampling requested by the District. I will get back to you once I have the comments from the consultants and the Department of Health.

We would be amenable to using Pacific Groundwater Group as a third party consultant and would agree to sharing in the cost of the evaluation. I would be glad to contact them and set up a time for all of us to meet if that works with you.

My Board would like to set up a joint meeting with the School Board. Would you be the one we need to work through or is it the Superintendent?

Regards,

Lynne A. Danielson, General Manager
Olympic View Water and Sewer District
8128 228th Street SW
Edmonds, WA 98026-8449
p: 425.774.7769 | f: 425.670.1856

From: Stewart Mhyre <mhyres@edmonds.wednet.edu>
Sent: Thursday, March 8, 2018 10:17 AM
To: Lynne Danielson <Lynned@ovwater.com>
Subject: Madrona

Hi Lynne,

I hope you are enjoying the rainy day. Last Friday I sent you an email including our monitoring plan for the UIC wells. We also included a number of 3 party consultants who could facilitate a conversation between our consultants. I hope you've had the time to review the information. We are eager to move forward. I hope that you could get back to me as soon as possible.

--

Stewart Mhyre, MBA, CSBA
Executive Director, Business & Operations

Edmonds School District

From: Stewart Mhyre
To: [Lynne Danielson](#)
Subject: Re: Madrona
Date: Tuesday, March 13, 2018 9:59:26 AM

Lynne,

The concept of hiring Pacific Groundwater Group is to act as a neutral 3rd party. And you are correct that they would act as a mediator. We've asked them for a proposal for what that mediation might look like. The school district staff and consultants are ready to meet just as soon as possible so that we can come to a conclusion just as soon as possible.

We have completed two rounds of baseline tests of the upgradient and downgradient wells and will have the raw data within a few days. When we get it I'll forward it to you. We will have a the report from Shannon and Wilson to interpret the data by the end of next week and when we get that I'll send that to you also.

The Dept of Ecology procedure for baseline testing requires us to conduct a series of eight rounds of testing, starting earlier this year and running until October. The Dept. of Ecology will not allow us to use the stormwater wells until we have completed the full round of eight tests and they have determined that the results meet their requirements. Normally we would not analyze the results of any of these tests until we have completed the full series of eight tests.

The Department of Ecology contact for the Madrona School Project is Mary Shaleen Hansen, UIC Program Coordinator, mary.shaleen-hansen@ecy.wa.gov, 360-407-6143. It may help the Dept. of Health review if Sheryl Howe at the Department of Health talks directly with Mary Shaleen Hansen. Both of them attended the site visit and discussion at your offices last summer.

Our school board has been fully briefed on the Madrona project and concur it is premature at that this point for the boards to meet.

Stewart Mhyre

On Fri, Mar 9, 2018 at 4:14 PM, Lynne Danielson <Lynned@ovwater.com> wrote:

Stewart – just out of curiosity, what is it that you are planning on having the 3rd party evaluate? I was under the impression that we were going to set up a meeting with the 3rd party and have them act in a mediator type of forum with both side expressing their concerns. If this is not the plan, please let me know before we go much further with the 3rd party. I am not sure that the end of March is a feasible time given that we do not have any of the information we have requested from the School District regarding the well testing and samples and the results are not expected until the end of this month. Again, we were apparently mistaken that tests had been done.

I am afraid that we must respectfully disagree that it is not time to have a meeting with the elected officials. My Board feels very strongly that interface between elected officials in this situation is very important. I will let the Board know what the Superintendent has said.

Lynne

From: Stewart Mhyre <mhyres@edmonds.wednet.edu>
Sent: Friday, March 9, 2018 4:04 PM
To: Lynne Danielson <Lynned@ovwater.com>
Subject: Re: Madrona

Dear Lynne,

Thank you for your prompt response. To expedite the 3rd party review I have asked Ed Peters to contact Charles Ellingson at Pacific Groundwater Group to draft a proposal that both the water district and the school district can review and modify as we deem appropriate. I will have Ed forward this draft to you as soon as we receive it. Ideally, we would like to complete the 3rd party review by the end of March.

I have discussed your suggestion for a joint meeting of our two District Boards with Superintendent Kris McDuffy. We agree that it is premature to consider such a meeting until we have something specific to discuss.

I look forward to working with you to resolve this matter.

Stewart Mhyre

On Thu, Mar 8, 2018 at 10:32 AM, Lynne Danielson <Lynned@ovwater.com> wrote:

Mr. Mhyre,

I did receive your email, our consultant and DOH are reviewing the proposal. The initial review indicates the school district has decided to follow only DOE regulations and did not include any of the additional testing, monitoring sites, safeguards or extended sampling requested by the District. I will get back to you once I have the comments from the consultants and the Department of Health.

We would be amenable to using Pacific Groundwater Group as a third party consultant and would agree to sharing in the cost of the evaluation. I would be glad to contact them and set up a time for all of us to meet if that works with you.

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Regards,

Lynne A. Danielson, General Manager

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