

Thornton Creek Watershed Committee Minority Report

Robert Vreeland

Thornton Creek Watershed Management Committee

March 2, 2001

A watershed plan should describe how the natural resource of a watershed could be protected and restored. The Thornton Creek Watershed Plan is being prepared by a committee of stakeholders, that is, a group of individuals with a stake in the future of the watershed. The Thornton Creek Watershed Management Committee includes residents, business owners, non-government organizations and government agencies.

How We Got Here

How did we get to the degraded nature of our urban watersheds? “Before we spend a fortune and disrupt people’s lives to restore wild salmon runs in Puget Sound, we should take a long look in the mirror. The same government agencies that have started tapping the cornucopia of federal salmon restoration money have ignored, selectively enforced, or actively violated the laws that are already supposed to protect salmon and salmon habitat. Investing more money in business as usual will not save the fish. Studies, court transcripts, expert observations and dismal anecdotes add up to a broad picture of government failure. Many good people in

government try hard to protect fish and habitat. But the institutions that employ them do not respect either the letter or the spirit of the law.” *Our government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example....If government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy.*

The Watershed

The Thornton Creek watershed is the largest watershed within the city limits of Seattle. It is located in the Northeast portion of the City of Seattle and the Southeast portion of the City of Shoreline. The watershed covers 7,485 acres (just under 12 square miles). The total length of the open stream channel is about 7 miles (36,742 ft.). The total length in culverts (pipes) is about 2.1 miles (6,424 feet). The total length of the stream accessible to salmon is about 2.7 (14,042 feet). Despite the short distance accessible to salmon in Thornton Creek, five of the six species of salmon (chinook, coho, sockeye, chum and steelhead) and two species of trout (cutthroat and rainbow) spawn and rear in the creek. This despite the problem that 50% or more of the watershed is impervious surface. These are surfaces which rainwater runs off of (roofs, driveways, sidewalks, streets, parking lots, etc.) rather than soaking into the ground or being taken up by vegetation.

Beginning the Downfall

In developing the Thornton Creek Watershed Plan, the Watershed Management Committee (WMC) experienced a number of problems. The first of these was the obtaining of the grant from the Washington State Department of Ecology. Only the City of Seattle (Public Utilities [SPU]) made the grant application, not Seattle and Shoreline together. This may have limited the available funding for the Plan and the extent of participation by the City of Shoreline. This may have also required that SPU staff spend more time getting information from Shoreline staff. It is somewhat fortunate that Shoreline has participated in the Committee as much as they have given no funding for their participation. It is unclear how much of a part the funding going only to SPU played in delaying completion of the Characterization Report or function of the Committee. Shoreline representatives on the WMC state that the lack of financial support has not inhibited their participation on the Committee.

There was also a problem to staff assignment to the staff from SPU and other agencies. The first contact person from SPU for the Plan was Trish Rhay. My first contact with Ms. Rhay was in April or May of 1997. Ms. Rhay applied and received another job prior to the first meeting of the Committee. At that point, Cheryl Paston was assigned as the contact person from SPU. By August 1997, a third SPU staff person, Chris Woelfel, had been be assigned as the Project Manager. These personnel changes at the beginning of the process may have gotten the WMC off to a shaky start. The Seattle Drainage and Wastewater Utility (predecessor to SPU) had completed two previous watershed plans, Pipers and

Longfellow creeks. Ms Woelfel had participated in the completion of the Longfellow Creek plan. In my experience with the federal government, assimilation of programs, staff, duties, etc, can lead to confusion, misunderstanding of authority, priority changes, etc. It is unclear what impact the assimilation of the Seattle Drainage and Wastewater Utility into SPU may have had on staff assignment, delays, etc. in developing the Plan.

SPU Staff Limitations

Assigned SPU staff was unfamiliar with the Thornton Creek watershed. They had to learn about the watershed with many of the other Committee members. The Committee began meeting in September 1997. Ms. Woelfel went on an extended planned leave in August 1998. Jovon Smith, an intern with SPU, was temporarily assigned to take Ms. Woelfel's place until mid September 1998. Ms. Smith had not participated in any Committee meetings prior to Ms. Woelfel's departure. Ms. Woelfel did return to Committee meetings in October 1998; however, her participation in Committee activities and on the Plan was limited for several months after that. It must have been clear to everyone on the SPU staff that Ms. Woelfel would be unable to fully participate in the Committee and with development of the Plan; however, a replacement was apparently not assigned or adequately trained prior to Ms. Woelfel's absence. In addition, Ms. Woelfel and the Committee received no additional staff help from SPU during Ms. Woelfel's part time participation (from approximately mid September 1998 to early 1999).

My Response and Action

I wrote a letter to SPU Director Diana Gale on Feb. 16, 1999 expressing concern about in-stream CIP projects, the limitations of the proposed projects and lack of project review by the WMC. I wrote letters to SPU staff as the then WMC representative from TCA (Lura Scharf on May 15, 1998, Ms. Woelfel on June 2, 1998 and SPU Director Gale on October 22, 1998)) regarding my concerns about Plan progress . My letter to Ms. Scharf expressed concern about what appeared to me to be a “shadow” watershed plan being developed with Capitol Improvement Projects (CIP) that was outside the purview of the Committee. My letter to Ms. Woelfel expressed concern regarding the quality of the draft Characterization Report. I had expressed concerns to Ms. Woelfel informally in comments on draft chapters of the Report. My letter to Director Gale expressed concern about not receiving responses to my previous two letters, lack of SPU support for assigned WMC staff and lack of Committee participation by representatives of Seattle Transit and The Department of Design, Construction and Land Use (DCLU).

In early February 1999, I received a response from Ms. Gail to my letter in October. SPU had hired a professional editor to assist with writing the Characterization Report and Ms. Woelfel was attempting to get representation from DCLU and Seattle Transportation Department. To my knowledge, no representatives from Seattle Transit or DCLU ever attended a Committee meeting. In my subsequent discussions regarding representation on the WMC, Ms. Woelfel stated she did not have the authority to require representatives from other agencies

attend or participate in Committee meetings. Also other potentially valuable members of the Committee never attended meetings or attended for only a short period of time. Captain Bryant, North Police Precinct; Dotty Decoster, Neighborhood Planning Office; Mark Gramberg, Municipal Golf of Seattle and Chris May, University of Washington to my knowledge never attended. Kate Gray, Meadowbrook Community Center; Sam Stalin, Northgate Mall General Manager; Don Harris, Lake City Chamber of Commerce; and Tony Opperman and Doug Hennick, Washington Department of Fisheries attended infrequently or for only a short time. Dotty Decoster was later hired by SPU and began attending the WMC meetings in 2000. It is clear that SPU staff had no authority to require or strongly encourage these potential WMC members to participate at all or on a regular basis. Staff did the best they could given the lack of support from SPU.

During the first more than a year of Committee meetings, we had no professional facilitator. It wasn't until January 1999; SPU hired Mary Anne Moorman to help the WMC through the process of developing the Plan. I had suggested we have a professional facilitator in one of our first Committee meetings, but other Committee members thought a facilitator was unnecessary. In my opinion, by the time Ms. Moorman was hired, her effectiveness was limited by too much "water under the bridge" to shift gears and make up for the more than a year of Committee learning about the watershed and a sputtering start on writing the Plan. Subsequent to Ms. Moorman being hired, SPU assigned Cary Westerbeck to assist other SPU staff with the Plan. Also a sub-committee became more involved in reviewing the Characterization Report. Sub-committees also began working on the major pieces of the Action Plan. My experience with sub-committee participation (Work Plan, Non-point pollution and Characterization) was one of pressure to hurry the process along and resistance to suggested changes to portions of the Plan by SPU staff. Some committee discussions were heated and at times feeling were hurt unintentionally. I was pressuring to get

the most complete and accurate information included in the Plan. It appeared to me that SPU staff was being pressured to complete the Plan as soon as possible. Staff denied this, but my 25 years of experience working in the federal government led me to believe that they were unable to be completely truthful to protect themselves and possibly others at SPU.

The effort to obtain the most accurate Characterization Report possible lead to delay of report completion. This resulted in development of other portions of the Plan without having adequate information from a completed Characterization Report. The introduction of the Characterization Report states “Using the background information and problem analysis in the Characterization Report, the Committee will develop an action plan outlining specific steps needed to control sources of non-point pollution and improve habitat and biological diversity.” Unfortunately Committee members did not see the completed Characterization Report until November 2000. The Committee has not discussed how the information in the Report (or lack of it) will influence the development of the Action Plan. The Committee has been asked to select and place priorities and budgets on some 93 recommendations intended to protect and restore the Thornton Creek watershed. This is occurring without the Committee properly reviewing the final “background information and problem analysis.”

Shadow Plans

During the time of Ms. Woelfel’s absence and her limited participation, SPU and the City were developing the CIP list for the Thornton Creek watershed and Seattle’s Millennium Urban Creeks Legacy Project. The Committee had no opportunity to participate in the development of either of these plans, both of which appear to me to be shadow plans for the Thornton Creek watershed.

The WMC did receive information on the CIPs. At one Committee meeting SPU staff provided 60% design drawings for some 17 projects to be completed in 1999. The WMC has never, to my knowledge, seen the 100% design drawings or been provided with the status of the five projects actually completed in 1999.

The WMC remains somewhat in the dark as to what projects will actually be completed in 2000 and if there have been changes in the projects since the 60% design phase. This situation continues into 2001.

As part of the CIP process, SPU initiated a \$12 million study had been undertaken by SPU to determine the best methods to alleviate flooding problems in the Thornton Creek watershed. In my opinion, the results of this study will have dramatic impacts on what the Committee recommends in the Action Plan. The study is part of the CIP list and was begun in late 1998. SPU staff initially told us that results of the study would be available in July 1999. The Committee has yet to see the results of this study and there is no sure date when the results will be available. I officially requested a copy of the draft Thornton Creek Basin wide Flow Control Plan dated May 2000 in January 2001 and subsequently received a copy of the Plan. The WMC was informed the draft Plan is available on line, but no discussion of the recommendations has occurred at any Committee meetings.

It also has become clear to me, through information obtained in my SPU Public Records Request, that the Committee has not been provided with complete and accurate information. I had expressed my concern about the intent of SPU and role of the Committee early in the process. My concern increased when it appeared to me that there were "shadow" watershed plans proceeding in parallel with the Committee process. My clues to this potential were the discussion of the by-pass piping alternative at the March 1998 Committee meeting, the CIP project list presented at the May 1998 Committee meeting and then the revelation that SPU was conducting a Meadowbrook Bypass Pipeline Study at the January 1999 Committee meeting. Despite reassurances by SPU staff at Committee meetings that no decision has been made on the Meadowbrook bypass, it is clear from the information obtained in my Public Records Request and the draft Flow Control Plan that this bypass alternative is being considered. Documents that lead me to believe this are meeting minutes from the Thornton Creek Modeling Meetings, notes of these meetings, E-mails and the draft Flow Control Plan. This is despite the fact that the Washington State Department of Natural Resources (DNR) has told SPU not to enlarge the outfall of the present bypass pipe to release additional flow into Lake Washington. Also Ms. Woelfel warned SPU and Entranco that the intake for the bypass to the southwest

of Nathan Hale High School would have to be screened to prevent flushing fish with the storm water and the potential loss of fish refuge area in Kramer Creek if the pipeline was constructed. It also appears that SPU is progressing toward doing projects suggested by the community as a way to make the “bitter-pill” of the Meadowbrook bypass pipeline easier for the community to swallow. There has also been discussion at the Thornton Creek Modeling meeting and alternatives in the draft Flow Control Plan to extend the bypass further than originally indicated in the 1998 study contract.

The Northgate Morass

Director Gale has stated that SPU is neutral regarding the daylighting of the south fork of Thornton Creek and full detention at the Northgate Mall. My Public Records Request suggests otherwise. Mark Saporito, a member of the Seattle Drainage Advisory Committee, and I have both questioned the so called “science” from SPU Mayor Paul Schell has referred to several times in his rejection of daylighting Thornton Creek through the South parking lot at Northgate. It is clear from information obtained in my Public Records Request that the Mayor’s response to Thornton Creek Legal Defense Fund and Mr. Saporito is based, in part, on information typed by Chris Woelfel, likely under direction of her supervisors.

It is also clear that SPU and the City of Seattle have made overt efforts to conceal information regarding the existence of Thornton Creek under the Mall south parking lot. Various E-mails imply this as well as notes from the Thornton Creek Modeling meeting that discuss “sanitizing” any Entranco (contractor for the Flow Control Plan) reports to conceal information that might be used to support the creek existence.

Also, stream typing maps completed by Washington Trout under contract with SPU were altered by SPU to not show potential salmon habitat through and to the west of Northgate Mall. Because of the legal action by the Thornton Creek Legal Defense Fund and a June 1999 decision by the Seattle Hearing Examiner, the existence of the South branch of Thornton Creek and potential salmon habitat under and to the west of Northgate Mall could not be included in the body of the Characterization Report. The existence of the creek under the Mall has been confirmed by King County Superior Court Judge Steven Scott in a May

18, 2000 decision. Both Doug Hennick (Washington Department of Fish and Wildlife habitat biologist) and Cleveland Stewart (Principle, Sustainable Fisheries Foundation) have made declarations regarding the potential salmon habitat to the west of the Mall.

The Watershed Management Committee is not the only one being given misleading information. The SPU Northgate briefing sheet provided to the City Council in March 2000 states the Meadowbrook bypass pipeline will cost \$12,639,000. A proposed SPU acquisition document states the cost of the pipeline at \$18 million.

Conclusion

It is clear to me that there has been 1) a lack of support for the Committee and SPU staff assigned to the Committee, 2) a lack of information or providing misinformation, 3) a lack of organization, 4) a lack of authority of assigned SPU staff and 5) “shadow” action plans proceeding in parallel with the Committee effort. When I consider all of these events over the past three years together, I am left with the uneasy feeling that SPU and the City of Seattle may lack the desire, commitment and intent to develop a Thornton Creek Watershed Action Plan that will truly protect and restore the natural resources of the Thornton Creek watershed. As a fisheries scientist with 30 years of training and experience in salmon issues in the Pacific Northwest, I cannot in good conscience support a watershed action plan that is not based on full disclosure in available information, thorough analysis of that information by the WAC and a subsequent sound scientific, systematic and rational plan for protection and restoration of the watershed. It is of particular concern to me that WMC members lack or have not reviewed information for basing a selection of recommendations that will aid in resolving watershed problems identified in the Characterization Report. Thus, as a scientifically trained representative on the WAC, I will only support a Thornton Creek Watershed Action Plan that 1) meets all requirements of the Washington Administrative Code (WAC 400-12) and the loan agreement between SPU and the Washington State Department of Ecology or 2) clearly identifies which and why certain Code and loan agreement requirements cannot be met and suggests methods for resolution of this situation.