



May 15, 2017

Mr. Daniel Thompson
Department of Ecology
Water Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

**RE: Rulemaking for Chapters 173-98 WAC and 173-95A WAC
Abandoned Mine Cleanup Eligibility**

Dear Mr. Thompson,

Trout Unlimited (TU) appreciates the opportunity to comment on the Washington State Department of Ecology's (Ecology) rulemaking process for Chapter 173-98 WAC and Chapter 173-95A. TU and our 5,000 members in Washington State share Ecology's objective to support project opportunities critical to protecting and enhancing water quality in Washington State. For this reason, we strongly urge you to include provisions for abandoned mine cleanup eligibility during the rulemaking process for Chapter 173-98 WAC and Chapter 173-95A. Specifically, we request that Ecology delete the provisions in the current rules prohibiting the use of funds for reclamation of abandoned mines, found at WAC 173-95A-120(20) and WAC 173-98-110(25). We request the addition of a provision that authorizes the use of funds for reclamation of abandoned mine sites that cause impacts to stream habitat and/or water quality.

Currently, Chapter 173-98 WAC and Chapter 173-95A include restrictions prohibiting the use of Clean Water Act Section 319 funds for mine cleanup projects. Other states do not self-impose this type of limitation on the use of Section 319 funds. In fact, other states frequently use these funds to implement important abandoned mine cleanup projects. Specifically, TU's Abandoned Mine Restoration Program has a successful track record of using Section 319 funds in Idaho, Colorado and Montana to clean up abandoned mine pollution and rebuild damaged streams. In Colorado, over the past 10 years we have secured \$856,000 in Section 319 funding via that state's Nonpoint Source Program to leverage an additional \$1.2 million dollars from other sources to reclaim toxic mine tailings and restore 11 miles of stream channel and 100 acres of floodplain and riparian habitat on private land in the Rio Grande Basin. Similarly, in Idaho and Montana, we have leveraged seed funding from state-administered Section 319 funding programs to secure four times that much from federal and private funding sources to rebuild rivers in the Clark Fork and Salmon River basins that were turned up-side-down by placer and dredge mining. In all three of these states, Section 319 funds have not only paid

directly to clean-up legacy mine impacts, but they also have leveraged significant additional outside funding for this work—funding that has created jobs in local communities that restore water quality and river health in those communities.

There is a critical need for authorizing the use of Section 319 funds for abandoned mine cleanup projects: there is no other designated funding source in Washington State for groups like TU – with the expertise, experience, and capacity to undertake this work – to access for this purpose. Ecology has previously expressed a strong desire for groups like TU to take the lead on abandoned mine cleanups, as they acknowledge the lack of internal capacity for tackling these projects. For the past five years, we have been working hand-in-hand with Ecology to develop a public-private partnership model for these projects, but the successful path forward has been elusive due to lack of funding availability and other constraints.

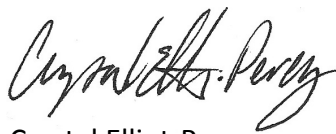
This is an urgent cause: abandoned mine sites – with their contaminated mine tailings and acid mine drainage – are ticking time bombs in Washington State’s headwater streams. From the Red Shirt Mill on the Methow River to the Sunset Mine on Trout Creek in Index, abandoned mines are a chronic source of pollution to our waterways and pose an acute risk for catastrophic ecosystem damage (think Gold King Mine in the Animas River watershed in Colorado).

Orphaned mine sites have one thing in common: the absence of any Potentially Liable Party (PLP) from which to collect damages to clean them up. Ecology’s “Polluter Pays” approach only works when the polluter can be identified. Ecology’s Central Region conducted an investigation of abandoned contaminated sites in eastern Washington to identify PLPs, and their results were sobering: only a handful of sites out of the hundreds investigated had viable PLPs.

The bottom line is Washington State’s abandoned mine sites will continue to languish on our landscape and pollute our streams unless Ecology establishes a funding source for their cleanup. Ecology’s rulemaking documents state that one of the purposes of the rulemaking is to “provide more flexibility” in the use of available funds. Simply removing Washington’s self-imposed restrictions on use of Section 319 funds for this purpose would be a huge step in the right direction. We urge you to capitalize on the opportunity presented by the rulemaking process to make these important changes to Chapter 173-98 WAC and Chapter 173-95A.

We appreciate the opportunity to comment on this rulemaking and would value the opportunity to discuss our request in greater detail.

Sincerely,



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