

Tom Mortimer

Ms. Inman

Please see comment below from City of Everett.

Tom Mortimer

After review of the Interim Guidance for Determining Net Ecological Benefit (NEB), I believe that the definition on page 2 is erroneous because it does not follow the language in ESSB 6091. In Section 202 (4)(c), Section 203 (3)(c) and (h), it states that "...will result in a net ecological benefit to instream resources...". This does not require "restoring streamflow" as stated in the draft definition.

The proposed definition of Net Ecological Benefits says that these must be "...from actions designed to restore streamflow.." This mischaracterizes the legislation which states in Section 301(8)(c) "Where avoidance and minimization are not reasonably attainable, compensating for impacts by providing net ecological benefits to fish and related aquatic resources in the water resource inventory area through in-kind or out-of-kind mitigation or a combination thereof, that improves the function and productivity of affected fish populations and related aquatic habitat." This all could be and has been done without "restoring streamflow" as stated in the draft NEB definition.

Therefore, we propose that you correct the proposed NEB definition to properly reflect the ESSB 6091 legislation as follows:

"A Net Ecological Benefit determination means anticipated benefits to instream resources from actions (DELETE: "designed to restore streamflow") will offset and exceed the projected impacts to instream resources from new water use."