



CLEAN, FLOWING WATERS FOR WASHINGTON

The Center for  
**Environmental Law & Policy**

Washington State Department of Ecology  
Water Resources Division  
300 Desmond Drive SE  
Lacey, WA 98503

*via electronic submission only.*

October 26, 2018

Dear Water Resources Representative:

Thank you for the opportunity to provide comments on Proposed Chapter 173-566 WAC, regarding funding for streamflow restoration and enhancement projects. CELP hopes that the specific comments below will help in clarifying this rule.

- Proposed WAC 173-566-100(2) states that there will be at least one funding cycle per biennium. Given the short time available for generation of watershed restoration and enhancement plans (there could conceivably be only one additional funding cycle before the 2021 deadline to develop watershed plans), Ecology should offer at least one funding cycle per year.
- The prioritization of projects in proposed WAC 173-566-150 is confusing and appears to conflict with the priorities in ESSB6091. Proposed WAC 173-566-150(1) prioritizes projects “within watersheds developing watershed plans” or in metering pilot project areas (the Dungeness and Kittitas basins). Does “watersheds developing watershed plans” refer to both the Section 202 and 203 watersheds? ESSB6091 does not prioritize one of these groups over the other, and it should be clear that they have equal priority for project funding. Also, nothing in ESSB6091 suggests that projects in the metering pilot watersheds should be prioritized.

The prioritization of project type is also somewhat confusing. ESSB6091 requires that projected impacts from new permit-exempt wells be offset with water in the 15 WRIAs enumerated in the statute. Projects which offset this water use should be prioritized. Given that the watershed plans (again, assuming that “watershed plans” refers to both the 202 and 203 watersheds) are required to recommend projects that fully offset the impacts of new domestic permit-exempt wells, why is there a separate, lower priority category for projects

that offset the impacts of new permit-exempt wells but are *not* included in the watershed plans?

- Proposed WAC 172-566-230 discusses non-water related mitigation projects. As new water uses are expected to be perpetual, the language in sections (b) and (f) regarding the duration of benefits may be problematic. Any projects that are intended to compensate for water uses and are evaluated as part of a plan creating a “net ecological benefit” must be maintained in perpetuity.
- Proposed WAC 173-566-240 requires that stream gaging and groundwater monitoring must be “directly related to restoring, maintaining, or enhancing streamflows or instream resources and values as part of a qualifying project.” This would appear to bar funding for a stream gage or groundwater monitoring project that is designed solely to provide information about extent or availability of water resources. ESSB6091’s language including stream gaging and groundwater monitoring does not provide any such restriction, and in fact such projects would likely provide valuable information in developing and implementing watershed plans. This language should be changed to make it clear that stand-alone monitoring projects may be funded.

Again, we appreciate the opportunity to provide input on this Rule. Feel free to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Trish Rolfe". The signature is written in a cursive, flowing style.

Trish Rolfe  
Executive Director