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WDOE has done a good job of meeting the specific requirements of the ESSB 6091 (RCW 90.42) without questioning the relative insignificance of the potential new domestic wells on the public benefits, environmental goods and services, expected through the implementation of Chapter 173-501 WAC.

The limitation on new wells of 500 gallons per day and the potential is a reasonable accommodation of the positions discussed at the Planning Unit and the Watershed Management Board. The estimates of projected domestic consumptive use are based on best available information, and the 500 gallons per day standard provides a useful cushion for those concerned about impacts new consumptive uses on natural ecosystem benefits. The use of annual average daily estimates rather than critical flow periods is a concern.

The provision for metering, if deemed necessary for confirmation of extractions, provides a measure of confidence that enforcement of the standard would be possible.

The local process did not critically review the list of projects to be considered to offset new consumptive use because of the lack of sufficient information on the specific sub-basin location of new consumptive uses and the priorities on sub-basin natural ecosystem benefits that would be impacted by these new consumptive uses over time.

There is a belief by some stakeholders in the watershed on the fact that suggests that the offsets for new consumptive domestic wells could include a water use efficiency effort directed at the agricultural use. This approach fails to appreciate that the legislation is related to the protection of senior water rights and the Nooksack instream flow rule has a relatively new priority date. Agricultural water use without rights is another question all together that needs to be addressed.

The option for interruptible permits to provide for strategies that would allow strategies discussed locally and have been implemented elsewhere for using water in excess of instream flow need to be released at critical times of instream flow need is a good first modification of the WAC, but it seems that there is a clear need for further delineation of the conditions for implementation of these permits by season and locality and the quality of the water as instream flow resources.

It is clear from the stakeholder positions put forth during the year of meetings to address the conditions of ESSB 6091, that the implementation of the existing WAC is not meeting the stakeholder priorities for the representative government's mandate to manage water to balance the public interest and the natural environment to provide instream base flows for the preservation of wildlife, fish, scenic, aesthetic, other environmental values and navigation, and lakes and ponds.

The Growth Management Act provides guidelines for accommodating more humans but does not similarly provide for adequate protection of valued environmental goods and services. Human development and its associated institutions and infrastructure impact water resources essential to many natural environmental goods and services in a manner not clearly understood by many stakeholders in the Nooksack watershed. It would seem essential to develop a common stakeholder priority for these natural goods and services (instream flows and out of stream water uses) by sub-basin, and season so that land use planning could accommodate the expanding population while maximizing the benefits from the naturally provided goods and services.