

kathy sabel

- 1) ESSB6091 did not alter the 1945 5,000 gallons/day allotment to permit-exempt wells; it established 3,000 gallons maximum annual average daily use. The preliminary draft amendment replaces the 5000 gallons with 500 gallons per day for domestic use. Rationale for this level of reduction is questionable. Some people may have owned land for some years and may have planned selling it for an investment now or for retirement. Does First in Time, First in Right apply to land ownership first in time, or does there have to be beneficial use? Department of Ecology (DOE) should consider compensation to landowners for possible lost value of the land due to reduced water withdrawals.
- 2) Will the Net Ecological Benefit (NEB) rule be finalized and used to create this amendment, or will the amendment continue to use the Interim NEB? What is the impact of using the NEB Interim Guidance vs the Final NEB?
- 3) The amendment is using water reduction numbers the Initiating Governments (IG) proposed during the WRIA1 process of reviewing ESSB6091 water limits and fees. Is more weight being given to IG opinion than the WRIA1 Planning Unit (PU) caucuses? If so, please explain.
- 4) Per information provided by Vincent Buys, ESSB6091 author, livestock watering and outdoor 1/2 acre use for lawn and non-commercial garden should not be affected by the preliminary amendment rule. Current language in the amendment seems to change this. The differing views of the law need to be reconciled for the final draft language with supporting documentation.
- 5) Early in the PU process for ESSB6091 one of the consultants explained how the 3000 gallons maximum annual average use was derived with data. Please include this in the final rule supporting documents to clarify the change in methodology between the legislation and now.
- 6) Part of the amendment should include making all data related to stream monitoring and water in WRIA1 publicly available in an easily accessible manner. For example, City of Bellingham monitors when and how much water is taken from the Middle Fork of the Nooksack for their use. This information and all other monitoring data needs to be easily accessible to the public in one location, and it also needs to be verifiable. All monitoring data needs to be integrated to be able to determine stream flow impact and water use and any other impacts.
- 7) Please provide methodology for outreach to the residents of WRIA1 for these proposed changes. Targeted outreach to those current and forecasted permit-exempt well owners is needed prior to the hearings on the final draft language due out November 2019. Outreach is needed as the trigger for the reduced allowed water withdrawal of the proposed 500 gallons is only memorialized when a building permit is issued.
- 8) In order for current and future permit-exempt well landowners to know of water withdrawal limitations, the land title should have it noted once the rule is effective June 2020, not later with an issued building permit. By having all the rules in the title effective the amended rule date, those with 5000, 3000 or 500 gallons may get a better understanding of the land's water use allowed, and so will the county assessor along with owners and buyers.
- 9) Are all comments to the preliminary draft submitted via the on-line DOE website, or mail or email to Annie Sawabini, part of the public record? When are the comments available for the public to review them? Will DOE do an official response to any of the preliminary draft comments?
- 10) What form will enforcement of well withdrawals take? Will there be penalties? Is my assumption correct that all wells, not just permit-exempt wells, will have withdrawals enforced?
- 11) Please confirm that the final rule will not be retroactively enforced, that it is effective June 2020 rule effective date forward.

12) Outdoor domestic water use appears to be a new interpretation of the current law which allows ½ acre for non-commercial garden and lawn (livestock separate). Please clarify in the amendment language what legally permits the amendment language change.

13) If possible, consider disconnecting the water withdrawal rule from county building permits to simplify the rule and the understanding of its application. Is there any other method besides building permits to determine a new water use? If ESSB6091 understood, even permit-exempt wells drilled prior to January 19, 2018 (ESSB6091 effective date) may fall under the proposed preliminary amendment limitations if it is determined a new water use.

14) Reducing the water withdrawals to 500 gallons per day reduces the offset projects needed. This appears shortsighted for the projected next 20-year growth estimates. Leaving withdrawals at the reduced 3000 maximum average annual use as determined by the Washington Legislature in 2018 allows for both water conservation and growth as the larger amount requires increased offset projects. It has not been shown permit-exempt wells have an impact on surface water. During the WRIA1 ESSB6091 PU process experts explained any possible effects of groundwater withdrawals cannot be differentiated from the allowed error margin of the water models.