



June 7th, 2019

Kasey Cykler
Department of Ecology
Water Resources Program
PO Box 47600
Olympia WA 98504-7600

Re: Comments on STREAMFLOW RESTORATION POLICY AND INTERPRETIVE STATEMENT

Dear Kasey Cykler,

Please accept the following comments from the Snoqualmie Indian Tribe on Ecology's Streamflow Restoration Policy and Interpretive Statement. The Snoqualmie Tribe—sduk^walbix^w in our Native language—consists of a group of Coast Salish Native American peoples from the Puget Sound region of Washington State. We have been in the Puget Sound region and the Snoqualmie Valley since time immemorial. sq^wed (Snoqualmie Falls) is the birthplace of the sduk^walbix^w. We had more than 90 long houses along the Snoqualmie River and its tributaries. These rivers and streams were the highways used to travel from village to village and connected all the ʔacittalbix^w (Natives).

Our Tribe was a signatory of the Treaty of Point Elliott with the United States and Territory of Washington in 1855. At that time, our people composed one of the largest tribes in the Puget Sound region totaling around 4,000. We lost federal recognition in 1953, but after much battle, we regained federal recognition in October of 1999. Today, the Snoqualmie Tribe is made up of approximately 650 members and occupies a sovereign homeland in the Snoqualmie Valley. The Snoqualmie Tribe (Tribe) is governed by an elected Council and our Tribal Constitution.

Specific Comments

- Pages 4 through 6 involve discussion of statutory limits on annual pumping volumes, maximum daily rates, and maximum areas of land that can be irrigated. These things are clearly described, but what value do these have if there is no or minimal enforcement, monitoring, education and outreach, and no penalties for violating these limits? Ecology's management and oversight of the current ongoing Streamflow Planning processes reflects an opportunity for action—now—in terms of new efforts



targeting state and/or local enforcement, monitoring, and public education on statutory limits to daily and annual flow volumes, and the acreages that may be irrigated by PEWs. We request that Ecology begin addressing this critical need concurrently with the watershed streamflow planning processes, so that when the plans are due, work can also begin to make these volumetric and acreage provisions in the statute meaningful in reality.

- Re. *Ecology v. Campbell & Gwinn, LLC, et al (2002)*, page 6: Clarification is needed regarding how this 2002 decision dovetails with RCW 90.94. Apparently a subdivision served by an exempt well or wells is restricted to a maximum of 5000 gpd and 0.5 acres in aggregate, as well as the per connection limits imposed by 90.94. Please confirm that individual lot owners cannot add an individual exempt well to their supply if they are in a subdivision with a group system supplied by an exempt well or wells.
- Re. *"Projects identified in plans or plan updates are not limited to those that can provide strict in-time, in-place offsets, though projects in the same sub-basin or tributary (within the same WRIA), and during the same time that the use occurs are prioritized. Projects in other sub-basins or tributaries that replace water only during critical times for fish may also be recommended"*: This seems inconsistent with some statements within the NEB Guidance document that emphasize the period when the **effect** of consumptive use appears in a given stream. An emphasis on offsetting the stream impact is the more logical period/season to focus on for replacement of water, as it is the more ecologically relevant standard.
- Re. Page 7, 1st Bullet: This helps resolve the inconsistency raised in the comment immediately above and makes sense from the perspective of reducing analytic work on exempt well impact and mitigation. To the extent that the hydrologic mechanisms governing the impact of exempt well pumping and consumptive use are similar in character to the mechanisms governing restoration projects, the time and place goal at the stream level would be met.
- Re. Page 7, 2nd Bullet, *"Twenty-year planning horizon"*: Basing the plan(s) on a twenty year tally of projected exempt well development seems arbitrary from a resource stewardship perspective. Can Ecology please explain if this is this just based on legislative interpretation and expediency, or is there an ecologically based planning rationale for the twenty year planning horizon?
- Page 11, *"Minimizing impacts"*: "Placing water rights into trust" should only be credited for mitigation to the extent that consumptive use is reduced during the planning period. Those portions of water rights that are not being used should not be credited for mitigation. Water Rights Acquisitions will not increase existing streamflow, and will not offset future impacts of Permit Exempt Wells unless water associated with acquired rights is actively being pumped or diverted and consumed, and only if



acquisition results in cessation of current pumping. Acquisition of rights that are aimed at prevention of future consumption prevent only future degradation of flow, and should not be counted as NEB compared to present conditions. In order to count as NEB, a water right acquisition should result in a reduction or elimination of an existing proven consumptive use.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Matt Baerwalde
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