

June 7, 2019

Annie Sawabini
Department of Ecology
Water Resources Program

Attention: Net Ecological Benefits Guidance Comments

The Building Industry Association of Washington (BIAW) appreciates the opportunity to comment on the Department of Ecology's (Ecology), Net Ecological Benefits (NEB) Guidance rule. BIAW represents over 8,000 Washington businesses engaged in all aspects of home construction and are champions of affordable housing in Washington State. BIAW is dedicated to ensuring and enhancing the vitality of the building industry so members can meet the housing needs of Washington citizens.

According to the language in RCW 90.94.030, "Prior to adoption of the watershed restoration and enhancement plan, the department must determine that actions identified in the plan, after accounting for new projected uses of water over the subsequent twenty years, will result in a net ecological benefit to instream resources within the water resource inventory area.

(d) The watershed restoration and enhancement plan must include an evaluation or estimation of the cost of offsetting new domestic water uses over the subsequent twenty years, including withdrawals exempt from permitting under RCW 90.44.050.

(e) The watershed restoration and enhancement plan must include estimates of the cumulative consumptive water use impacts over the subsequent twenty years, including withdrawals exempt from permitting under RCW 90.44.050." The statute clearly states that the watershed restoration enhancement committees' obligations are to mitigate the offsets for the next 20 years and no further. In Ecology's guidance document section 3.2.2, the Department requires that to meet NEB, "... the offsets required to mitigate the new uses continue beyond the 20-year period and for as long as new well pumping continues". This is not consistent with the statute. The statute does not allow for requiring offsets to go past the 20-year threshold. BIAW asks that the NEB guidance follow the law and remove this additional requirement.

In section E. of the NEB guidance document relating to adaptive management, BIAW asks that Ecology clarify the vague language. As the adaptive management section reads now, it implies for a plan to meet NEB it must include an adaptive management provision allowing Ecology to change the final plan at any point. This broad authority is not given in the statute and being that Ecology has final approval over the plan, if the plan needs to be changed down the line, rulemaking would be an appropriate avenue. Please consider removing this section as RCW 90.94.030 does not give Ecology the authority to make changes to the plan after the restoration enhancement committees approve the plan and the plan goes through rulemaking.

Thank you for taking the time to review and consider BIAW's comments. We invite you to contact us if you have any questions about this comment letter.

Sincerely,

Josie Cummings
Regulatory and Government Affairs Manager
Building Industry Association of Washington