

Yakima County

In reading from the 6091 bill to RCW to WAC to these draft guidelines, it seems that Ecology has gotten fairly close to the intent of the legislature, and even closer to what the legislature directed Ecology to do. I like to comment on the priority emphasis for the pilot metering project in Kittitas County. The text in the bill and RCW refers to pilot projects in the "area in which the Kittitas County water bank program operates with Water Resource area 39" and the expenditure of funds from the Watershed Restoration and Enhancement accounts "in watersheds participating in the pilot project" which are potentially two or three different areas, but the brochure and map treat them as one, and that one is incorrect as it will in no cases be coterminous with the boundaries of Kittitas County. If Ecology wants to comply with the area where the water banks are in effect, then that would be most of the privately held lands in the WRIA 37, and certainly not the state or federal lands as Kittitas County would have no underlying building permits (which require mitigation) in those areas, neither does it include those watersheds which drain towards the Columbia in Kittitas County. If Ecology wants to comply with the directive in the funding sections, the "watersheds" could mean:

- a) those watersheds in the Yakima Basin in Kittitas County in which contain private lands
- b) WRIA 39
- c) the Yakima Basin - due to the architecture of the storage reservoirs, even water conservation in Benton County or in the Naches River in Yakima County could benefit TWSA and therefore "improve streamflows" in the watersheds or areas of Kittitas County where the metering pilot is underway.

The guidance and map should accurately convey the priority area and rationale for how that priority "area" and "watersheds" were incorporated into the grant program.

I also note that the legislature did not officially name the act, or the subsections of the act that modified RCW 90. The act is "An ACT Relating to ensuring that water is available to support development" and Ecology seems to have lost that direction, this funding does not seem to allow for simply mitigating for the effects of development so that water is available for that purpose. The funding requires "improvement" in streamflows, but does not specify what the baseline for measurement of "improvement" may be - is the baseline without development, current conditions, forecasted future conditions with impacts from unmitigated development, etc? There is no specific policy goal defined, but I can find no place in the bill as passed where "improvement" is required. The minimum requirement in the act for the watershed plans is "the watershed plan must include those actions that the planning units determine to be necessary to offset potential impacts to instream flows associated with permit-exempt domestic water uses. The highest priority recommendations must include replacing the quantity of consumptive water used during the same time as the impact and in the same basin or tributary" Ecology seems to have lost this development-related component of the program direction in formulation of both the WAC and the Guidance. The emphasis in the WAC and Guidance is toward streamflow improvement and benefits to T&E species and salmonids, both of which are also directions given in the act. The requirement that conserved or purchased water be placed in trust (not allowing transfer to development uses or municipal rights) is not in the act, and would bias the program away from those areas where development pressures are high and water rights scarce, and towards areas where there better opportunities for habitat protection and where existing water rights are available. I do not think that was the legislative intent - there are existing programs that fulfill that niche, but no existing programs that focus at the point of water needed for development in areas where instream flows are

not met or water rights are not available for mitigation. Specifically, there is no clear criteria in the guidance for evaluating the development need, only salmonid needs - a County Comprehensive Plan or zoning code or land capability analysis is not included as a means of evaluating project benefits in the categories of "The applicant has identified one or more local problems identified by study or local expertise that the proposal is designed to address fully or in part" nor in "Proposed project and project benefits align with the needs of the community and other watershed planning processes." It is the development pressures in combination with the instream flow needs which drove the compromise that created an act which modified the building, subdivision, growth management and water codes. The funding program needs to recognize the importance of those development/growth management issues and processes in resolving community problems, not just a sole focus on improving streamflows in exclusion of all else.

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