



## Washington Association of Sewer & Water Districts

EDUCATE ■ ADVOCATE ■ COLLABORATE

December 16, 2021

Susan Braley  
Water Quality Program  
Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

RE: Comments on changes to 173-201A-200 WAC regarding Salmon Spawning Habitat Protection Rule

Dear Ms. Braley:

The Washington Association of Sewer and Water Districts (WASWD) represents the approximate 180 public sewer and water districts in the state, serving nearly 25% of Washington state's population. These districts provide cost-effective sewer and water services—ranging from the state's largest population centers, to the smallest rural communities. Clean water is a major concern to both our membership and the clients they serve.

We appreciate the work that Ecology has done to revise these water quality rules in order to satisfy EPA concerns about fine sediments and meet the requirements of a stipulated order of dismissal of a past litigation against EPA. Ecology staff gave a good presentation explaining how this represents an expansion from strictly water column based dissolved oxygen (DO) by adding oxygen saturation and intergravel DO. We also understand that Ecology has further work to do regarding methodologies for sampling and measurement of these parameters. We do have some concerns with the interpretation and implementation of the rule.

Ecology has stated that the oxygen saturation criteria will better allow for distinguishing temperature effects from nutrient effects. Furthermore, it was allowed that warm water conditions that are natural, and therefore allow less oxygen saturation, will not be counted as anthropogenic. This raises several questions: What would be considered natural? How would we know what is natural for a creek if the banks have been cleared of vegetation prior to European influence, such as burning by indigenous peoples? Will this rely strictly on reference sites?

Ecology spoke of the potential of these rules to impact future permit issuance and renewals, and we understand that this will occur on a permit by permit basis. NPDES stormwater permits largely operate on the use of best management practices, including inspection of construction sites for adequate sediment controls. Do you anticipate any further permit requirements or an increased effort on the part of Ecology regarding inspection of construction sites to control sediment?

We wonder what the impact of the rule changes will be on Habitat Conservation Plans that have been developed for forest lands across the state as part of endangered species response, and to provide long-term certainty for wood products producers. The courts have already rejected efforts to require NPDES permits for logging roads, so is this intended as another method to regulate those discharges?

Finally, it appears that much of the solution for the problems of dissolved oxygen, oxygen saturation and fine sediments will lie in greatly increasing buffers and vegetation along streams and rivers. After decades of resisting establishment of a trading program for a variety of compliance projects, the time is right for Ecology to work with the regulated community to establish one for this project as well as the new Nutrient Permit that was just released. Allowing permittees to participate in plantings and erosion control projects will allow reduction of sediments, nutrients, and provide shade to reduce temperatures and increase dissolved oxygen. Ecology should also provide money and other incentives for private property owners to take actions on their lands, something that local jurisdictions cannot require to be done.

We appreciate the opportunity to comment on the revised rules.

Sincerely,

A handwritten signature in blue ink that reads "Judi Gladstone". The signature is written in a cursive, flowing style.

Judi Gladstone  
Executive Director  
Washington Association of Sewer & Water Districts