

# Multiple Organizations

Comment letter attached as PDF.

September 27, 2023

Marla Koberstein  
Washington State Department of Ecology  
Water Quality Program  
300 Desmond Dr SE  
Lacey, WA 98503

*Re: Proposed Designations of the Cascade River, Green River, and Napeequa River as Tier III(A) Outstanding Resource Waters under WAC 173-201A*

Dear Ms. Koberstein:

American Rivers, American Whitewater, Cascade Forest Conservancy, Trout Unlimited, Washington Wild, and the Wild Salmon Center proposed designation of the Cascade River, Green River, and Napeequa River as Outstanding Resource Waters (ORW) under WAC 173-201A.

We are writing today to thank you, the Water Quality Program, and the Agency, for proposing the designations and for your continuing attention to this matter. We also acknowledge and thank the agency for the extensive outreach efforts conducted to interested and potentially affected communities and the myriad opportunities for public input and questions given. Because Outstanding Resource Water designations have not previously been implemented in Washington State, the agency highlighted an initial opportunity for public comment as part of its Triennial Review in July 2021, including a 30-day public comment period. In August 2022, the agency announced that it would pursue outstanding resource water designations for four waterways and initiated a CR-101 rulemaking, including webinars and informal outreach with Tribes, local elected officials, agencies and the public for about a year. On July 18, 2023, the agency initiated a CR-102 rulemaking including four public hearings and a roughly 70-day public comment period. Washington Department of Ecology (DOE) staff have made time and space for significant public involvement since the nomination and throughout the rulemaking process allowing all interested parties ample opportunity to make sure their voices are heard.

In addition, we are writing to respond to several questions and concerns raised during the public comment period:

Regarding the reason for selecting these specific water bodies, the proponents chose the three rivers because each meets multiple of the eligibility criteria for Tier III(A) ORW status, as DOE's preliminary assessment confirmed. Their proposed designation has no bearing on and does not compete with the suitability or potential for designation of other water bodies in the state. That said, as waters of exceptional water quality and statewide ecological, cultural, and recreational significance, the three proposed rivers have more to lose than already-degraded

waterways. ORW designation is a proactive protection rather than a belated response. It aims to prevent degradation from occurring that would jeopardize or compromise their exceptional quality and value, preserving these waters in their current pristine state for the benefit of current and future generations. Protecting high quality water bodies is an essential step to protecting the millions of dollars of investment that have been, and continue to be, made downstream by Tribes, local municipalities and state and federal governments for salmon habitat and aquatic restoration. We need to both protect what we have while we restore what we have lost to be successful in our shared restoration goals.

Regarding the timeliness of these nominations, as climate change impacts on ecosystems such as these continue to increase in both severity and frequency, it is increasingly urgent to take action to mitigate risk and prevent harm to communities and the environment. Each season, catastrophic events expose and exacerbate weaknesses in policies and infrastructure that society has traditionally relied on for the preservation of natural resources we depend on for clean air, clean water and economic benefits. Alongside the climate crisis, the U.S. Geological Survey finds that over 80% of freshwater species and 30% of freshwater ecosystems have been lost or are in jeopardy, generating a nature crisis of unprecedented scale. In this uncertain and precarious environment, Outstanding Resource Water designations provide a meaningful layer of protection to bolster the resilience of our natural resources.

Regarding the sufficiency of existing protections for the proposed nominations, as the DOE's preliminary regulatory analyses show, the current baseline standards only afford these waters protection in the foreseeable future and under normal circumstances. In the event of unexpected and unforeseen circumstances, ORW status would provide greater certainty of protection against degradation. This state-level protection would also ensure the state's statutory ability to safeguard Washington's important waterways should federal protections or standards be removed or altered.

In addition, regarding questions of the relationship between Forests and Fish rules and ORW designations, the former only apply to timber harvests on state and private lands; the proposed ORW designations for the Cascade, Green and Napeequa Rivers are for stream segments that are on federal land (i.e., National Forest, National Park). Thus, the Forests and Fish rules simply do not apply.

Regarding the impacts to access that the proposed rulemaking might bring, ORW status does not affect existing use of designated waterways. Indeed, the designations would preserve the quality of these waters in perpetuity for current and future generations, thereby increasing and strengthening overall public access to and benefit from these waters. In addition, the proposed stream segments were selected for their lack of encroachment on private land, to avoid affecting private landowners. Finally, as part of this rulemaking, the DOE is also proposing amendments

to the existing requirements for tribal consultation that would increase the level of tribal inclusion and consultation the agency's water quality program carries out in the future, further increasing equitable access and involvement in natural resource management across the state.

Regarding any request for additional time and space for questions to be asked on the proposed rule, the proponents fully support and would gladly participate in a forum to discuss these special rivers and the benefits that ORW designation would bring to Washington's communities. However, given the merits and qualifications for designating these waterways as ORWs discussed in some detail above and extensively in the original nomination documents reviewed and approved by DOE, the outreach to Tribes, affected governments, and other stakeholders that DOE has conducted since the nomination, the several months of public comment that have already taken place on the proposed rule, and the strong community support for these designations evinced in comments and testimonial to-date, we encourage DOE to move forward without delay in adopting these rivers as Washington's first Outstanding Resource Waters.

We are grateful to the Department of Ecology for your efforts and attention to this matter, and for this opportunity to provide comment.

Sincerely,

Molly Whitney  
Cascade Forest Conservancy

Tom Uniak  
Washington Wild

Jess Helsley  
Wild Salmon Center

Dean Finnerty  
Trout Unlimited

Thomas O'Keefe  
American Whitewater

Sarah Dyrdaahl  
American Rivers