

Jerry Bonagofsky

1. Please postpone any designations of Tier II waters until clear transparency has been met. Given that this is the first time ever that Ecology is designating these waters, a very high standard and clear and specific information should be available so we can have both meaningful public participation and transparent analysis. Right now there is a lack of sufficient water quality data to support the designations and the benefits of this proposal are unclear since many of the waters already have protection. There will be significant economic impacts, the environmental impact on land and shoreline use is undisclosed, and the potential restriction of human activities without adequate public and legislative approval is troubling. We urge the Department of Ecology to pause the rulemaking, conduct thorough and transparent analysis with site-specific data, and consider public input to ensure benefits outweigh costs and regain public confidence in the rule-making process.

2. Ecology is not being transparent.

Please pause this proposed rulemaking until transparent, objective, and robust analysis is conducted. Ecology should not designate these waters without giving the public clear and direct information about how it is making these designations, the costs of designation, and the implications for local communities.

3. Ecology has not demonstrated a clear benefit.

We encourage you to stop this rulemaking as Ecology has not identified a quantitative benefit for designating the waters. Ecology water quality standards are purportedly already being met in these waters although there are no site-specific data to demonstrate it. In any case, they are already subject to state and federal protections. Ecology's Preliminary Regulatory Analyses could not quantify the degree to which designation would improve water quality, increase recreational visits, or increase fish and wildlife populations.

4. Ecology has not revealed economic costs.

Please halt this rulemaking until Ecology has established a high standard for designations which will have significant economic impacts that have not been disclosed. Ecology's Tier III rulemaking acknowledges that Tier III designation would significantly impact current and future human activities adjacent to protected waters in public spaces, potentially preventing public use and access for recreation or other uses. Ecology also acknowledges that Tier III protection potentially has major implications on economies of the state, and acknowledges that designation will prevent large-scale development and may increase costs for small-scale development. However, Ecology's Regulatory Analyses does not discuss economic impacts on adjacent communities of permanent protections. It does not acknowledge the square miles affected. Ecology will require activities to use "all applicable structural and nonstructural best management practices," but has not identified what those are or what they will cost.

5. Ecology has not disclosed environmental impacts – good or bad.

Please wait on the rulemaking until the environmental impacts of these designations are disclosed. Ecology is required by the State Environmental Policy Act (SEPA) to disclose impacts on land and shoreline use. Yet its SEPA decision does not acknowledge that the designation would likely prevent roads and public access for human activities adjacent to these waters. It also does not discuss potential impacts on forest management practices to prevent or fight catastrophic wildfires.

6. Ecology's action would be unprecedented and poorly defined.

This is the first time Ecology has designated waters since its rules were adopted 20 years ago. Failure here to identify a quantitative need and identify the cost of designation sets a precedent for overreaching in other waters. This is particularly a concern because Ecology's standards for

designating waters as Tier III are vague and subjective.

7. Ecology's recent history of misapplying regulatory standards casts a shadow over this new action. Ecology has recently been misusing its "Tier II" regulation to prevent measurable change in waters that are meeting state standards. Ecology's expanded use of Tier III designations could essentially prevent human activity in large portions of the state from headwaters to the ocean without any express approval by the Legislature, demonstrable benefit for water quality and without demonstrated support in affected communities.