

July 26, 2024

To: Department of Ecology

RE: New water quality standards

From: Betsy Norton

I am concerned that the newly proposed 'natural condition' water quality standards will reduce water quality requirements and encourage degraded water quality across the state, now and in the future. I urge Ecology to reject the new standards.

Assumptions: The continued presence of wildlife and biodiversity is an overriding public interest. Wildlife use of state waters is a designated use which, along with human health, must be protected by state water quality rules.¹ If state water quality rules are set in a way that ignores or interferes with that designated use, those rules should not be adopted.

“Natural condition” baselines should protect designated uses but MUST NOT result in lower water quality standards than those already promulgated. The combined anthropogenic impacts historic and current contamination, climate change, over-allocation, should be monitored and managed so that resulting water quality sustains aquatic biota and their habitat. Special emphasis should be placed on potential impacts to rare/listed species and their habitats from any new standards, considering the dire consequences if these species are not protected. The benchmark/water quality standard must be driven by what is needed for species' designated use of the waters and protecting human health - not based on existing site-specific degraded contexts.

“Natural Condition” is a purely theoretical construct, modeled and consumed by Ecology without oversight.

This 'standard' can't be independently verified – it is defined and implemented only by Ecology and relies on modeling a lot of historical data unlikely to be comprehensively available and reliable. (whole history of natural and human impacts to a waterway in WA?). This complex modeling with partial data and many assumptions is also not subject to oversight. This seems like a very shaky foundation for standard.

Expected Impacts are to improve Ecology's administrative performance and reduce required pollution control infrastructure.

By Ecology's own analysis, the new standard will take waterbodies off their 303D list, speed up their permitting processes and reduce the 'cost of compliance' burden for permittees by hundreds of thousands of dollars. This cost relief comes from permittees no longer being required to implement features which would reduce emitted pollutant impacts

¹ EPA Nov 19,2021 letter of disapproval to WA Dept of Ecology. And the EPA technical addendum to that letter, p. 7. "Question 2- "Does the provision address designated uses, water quality criteria (narrative or numeric) to protect designated uses, and/or antidegradation requirements for waters of the United States? "

on the already degraded water body – things like Cooling towners, riparian shading, other shading, chillers, etc. ² In this way Ecology has bypassed responsibility for protecting wildlife habitat at the same time they are saving polluters money and alleviating Agency workload.

“Natural Conditions” sets a bad policy precedent.

The use of “natural conditions” criteria means that Ecology will be setting water quality standards on the basis of what polluters can currently achieve, rather than basing those standards on water quality level will sustain species (including humans). As surface waters face more and more threats from climate change/”natural” causes, “natural conditions” criteria allows polluters to add to that degradation.

This sets a bad policy precedent that precedent wildlife habitat/designated use is NOT critical criteria for water quality. The policy shift here is to use standards to protect the interests of the polluters(caring about cause, not effect), not to provide a protection of the overriding public interest - protecting biodiversity and species presence in these ecosystems.

Climate change demands a different way of looking at Water Quality/Water Resources

At what point will Ecology determine climate change has become critical, and instead of spending time and resources figuring out ways to allow polluters to continue to pollute, they turn those resources towards figuring out how humans can ameliorate the impacts of both climate change and historic pollution and restore these water bodies? Will you wait until local extirpation of species becomes the norm?

I would advocate Ecology start turning that around now, by sticking with current numeric standards, using the ‘seasonal’ factors in the TMDL formulae if necessary to pacify the polluters, and focus attention and resources on innovation which will make water quality BETTER, not worse. Better quality will sustain species, conserve habitat and protect wildlife’s ‘designated use’ of the water bodies. The Wildlife and the humans will be best served and sustained by taking this route and abandoning use of ‘natural conditions’.

Thank you for your consideration.
Betsy Norton

² Ecology’s cost-benefit analysis 24-10-022, p. 41-42.